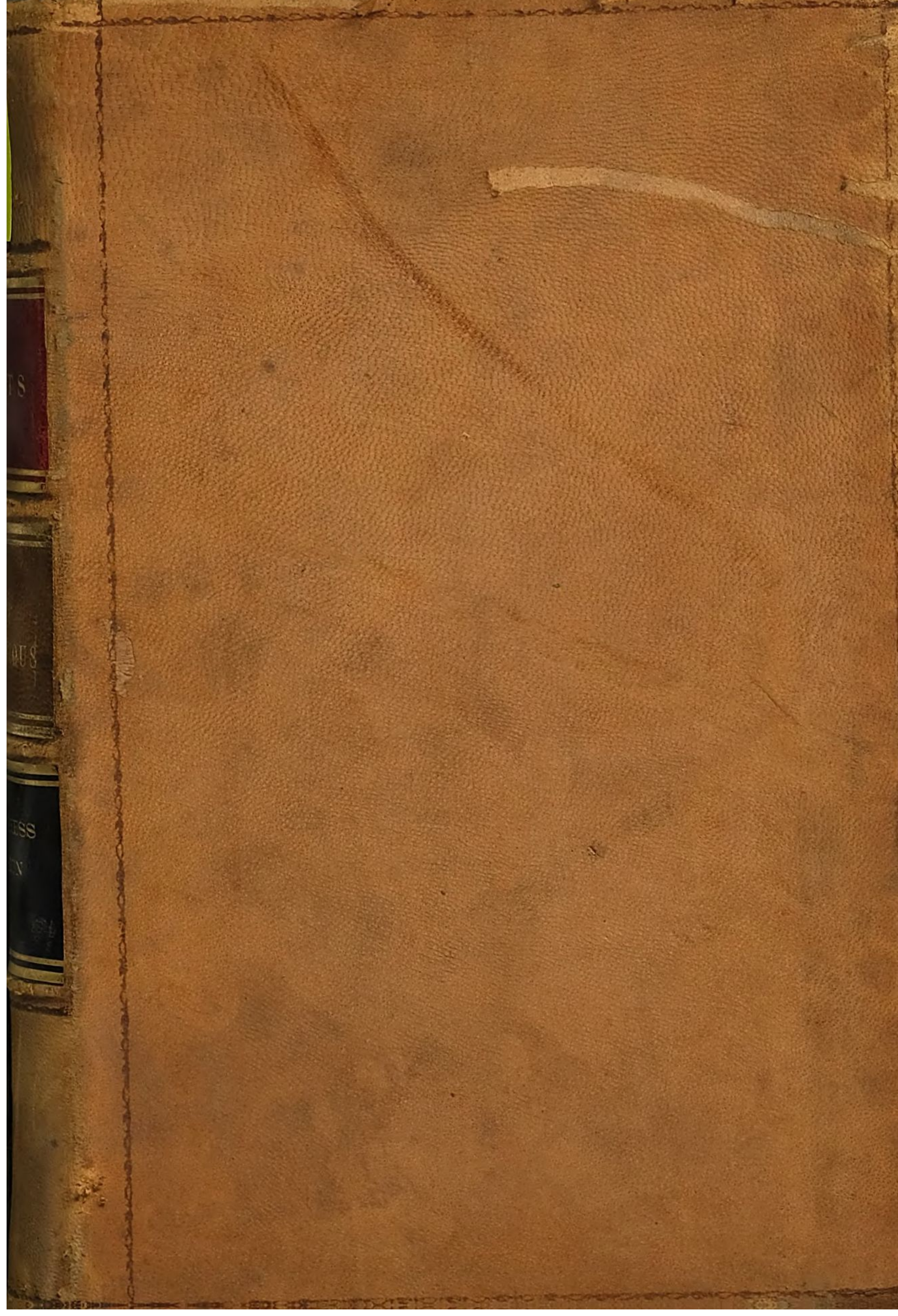
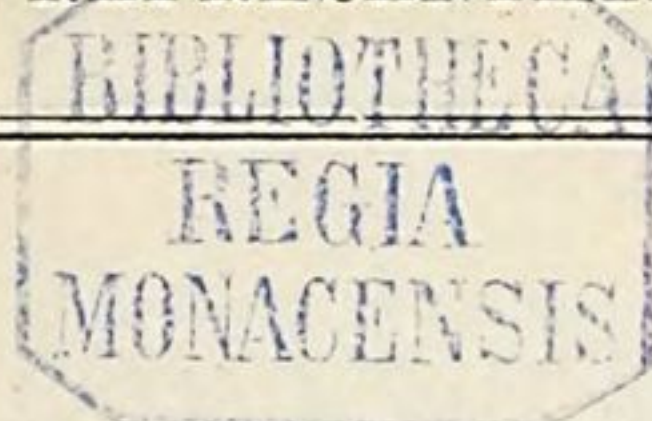




Am. B. 3040

(472)

Proceedings



FORT KLAMATH HAY RESERVE.

FEBRUARY 7, 1896.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. ELLIS, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany H. R. 5286.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 5286) for disposal of Fort Klamath hay reserve, submit the following report:

The body of land sought to be restored to the public domain by this bill consists of about 2,000 acres. It was originally set apart as a hay reserve for the use of the United States military post at Fort Klamath, Oreg., which fort has long since been abandoned and the post vacated. The land embraced within the reserve has been transferred from the jurisdiction of the War Department to that of the Department of the Interior. Under existing law the land is not subject to homestead entry.

It being desirable that occupation by bona fide settlers shall be encouraged as to said lands, and in consideration of the fact that the Commissioner of the General Land Office, under date of January 23, 1895, recommended as follows:

After further consideration of the subject, and influenced by a wish to secure for actual settlers every possible facility for acquiring homes, I may state * * * that I now amend the report of September 12, 1894, and recommend that the two small reservations under consideration be divided into 40-acre tracts, and that the lands be disposed of under the homestead laws.

Of the two small reservations referred to, the Fort Klamath hay reserve is one.

By the bill reported, which was drafted by the Department, it will be seen that 80 acres is made the limit of homestead entries on said tract instead of 40 acres, and your committee so report, and recommend the passage of the bill without amendment.



TIME FOR VESSELS TO DISCHARGE THEIR CARGOES.

FEBRUARY 8, 1896.—Referred to the House Calendar and ordered to be printed.

Mr. BARTLETT, of New York, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany S. 661.]

The Committee on Interstate and Foreign Commerce, to which was referred Senate bill 661, report the bill favorably with the recommendation that it pass, and adopt the following report thereon of the Senate Committee on Commerce:

The Committee on Commerce, to which was referred Senate bill No. 661, report as follows:

The object of this bill is to provide sufficient time for vessels from foreign ports, especially sailing vessels, to discharge their cargoes.

Its enactment has become necessary on account of the increase in the tonnage of vessels since the passage of the present law.

The present statute was enacted in 1799, when vessels of 800 tons—the maximum named in the law—were of extreme size. Since then, however, vessels have more than trebled in tonnage. Ships of 2,500 tons are common, and many exceed 3,000 net register. For such vessels the fifteen days allowed by law for the discharge of their cargoes is entirely inadequate. This bill provides the needed remedy.

This bill is moreover an improvement upon the present law, in that it substitutes for the word “burden” the term “register” to denote the official tonnage, which is fixed when the vessel is built, and is not only stated in her papers but indelibly carved upon her main beam, as required by law.

The bill moreover remedies the indefinite language “working days” in the present law, substituting therefor the more precise expression “excepting legal holidays and days so cold or stormy that they absolutely prevent the unlading of the vessel with safety to the cargo.” The law of 1799, now in force, excepts only “Sundays and the Fourth of July,” the only holidays then authorized. Treasury regulations have since excepted “rainy days and holidays,” but it would manifestly be better to avail ourselves of the present opportunity and have them covered by Congressional enactment.

The provision as to weather is necessary, as certain cargoes can not be safely exposed while the temperature is below the freezing point.

The enactment of the bill is needed particularly for large sailing vessels loaded with coarse, bulky, cargoes, which can not be discharged within the time now allowed by law, such as nitrates, etc., which are usually discharged at the rate of about 100 tons per day.

Its enactment into law, therefore, will be for the benefit of the commerce of the country at large, without detriment to the interests of the United States.

RELIEF VESSEL FOR FOURTH LIGHT-HOUSE DISTRICT.

FEBRUARY 8, 1896.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. CORLISS, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. R. 1413.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 1413) for a relief vessel for the Fourth light-house district, respectfully report the same back and recommend that the bill do pass.

The committee are of the opinion from careful investigation of the facts that the proposed legislation is necessary for the safety of vessels and that the interests of commerce and navigation require that relief vessels be provided as contemplated by this measure. The accompanying papers from the Acting Secretary of the Treasury and the Light-House Board, herewith submitted, which are made a part of this report, show the necessity for a relief vessel at the place named.

TREASURY DEPARTMENT,
Washington, D. C., January 10, 1896.

SIR: I have the honor to acknowledge the receipt of a letter from your committee of January 6, 1896, inclosing House bill 1413, for a relief light-vessel for the Fourth light-house district, and request is made that the committee be furnished with suggestions touching the merits of the bill and the propriety of its passage.

This matter was referred to the Light-House Board, which reports that it recommended in its annual report for 1894, on page 85, and repeats in its annual report for 1895, page 88, its suggestion that \$70,000 be appropriated for the construction of a relief light-vessel for the Fourth light-house district. A copy of the statement made by the Board in its report is herewith inclosed.

This matter is further treated of and emphasized on page 180 of the Book of Estimates for 1896-97.

The Light-House Board is still of opinion that the interests of commerce and navigation require the establishment of this light-vessel.

Respectfully yours,

S. WIKE, *Acting Secretary.*

The CHAIRMAN OF THE COMMITTEE ON
INTERSTATE AND FOREIGN COMMERCE,
House of Representatives, Washington, D. C.

[Extract from the Annual Report of the Light-House Board for 1894, p. 85.]

Relief light-vessel for the Fourth light-house district.—During the recent cyclones light-ship No. 37, stationed off Five-Fathom Bank, coast of New Jersey, Atlantic Ocean, in the Fourth light-house district, was wrecked. There is now no relief light-ship in the Fourth light-house district. The interests of commerce and navigation urgently require that a new vessel should be provided to replace the wrecked vessel at the earliest day practicable. It is estimated that the construction and establishment of a first-class light-vessel, with a steam fog signal, suitable for Five-Fathom Bank, will cost \$70,000, and it is recommended that an appropriation of that amount be made therefor. When that is done the vessel now on Five-Fathom Bank can be used as a relief light-vessel, and can be held in reserve to take the place of any one of the light-vessels now on stations in the Fourth light-house district whenever any of them may become disabled.

LIGHT VESSEL AT OVERFALLS SHOAL, NEW JERSEY.

FEBRUARY 8, 1896.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr CORLISS, from the Committee on Interstate and Foreign Commerce submitted the following

REPORT:

[To accompany H. R. 1412.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 1412) for a first-class light vessel at Overfalls Shoal, New Jersey, respectfully report the same back and recommend that the bill do pass.

The communication from the Treasury Department and a report of the Light-House Board for 1895, herewith submitted, shows the necessity of the proposed legislation in the interests of commerce and navigation.

TREASURY DEPARTMENT,
Washington, D. C., January 10, 1896.

SIR: I have the honor to acknowledge the receipt of a letter from your committee, of January 6, 1896, inclosing bill 1412, for a steam light vessel at Overfalls Shoal, New Jersey, and request is made that the committee be furnished with suggestions touching the merits of the bill and the propriety of its passage.

This matter was referred to the Light-House Board, which replies that in its annual report for 1894, on page 85, a copy of which statement is herewith inclosed, it recommended that \$70,000 be appropriated for establishing a light vessel on Overfalls, off South Shoal, entrance to Delaware Bay. This recommendation was repeated on page 88 of the Board's annual report for 1895. Recommendation is also made on pages 179, 180 of the Book of Estimates for 1896-97 that this appropriation be made, and reasons are given therefor.

The Light-House Board is still of the opinion that the interests of commerce and navigation require the establishment of this light vessel.

Respectfully, yours,

S. WIKE, *Acting Secretary.*

CHAIRMAN COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
House of Representatives, Washington, D. C.

[Extract from the Annual Report of the Light-House Board for 1894, p. 85.]

Light vessel for Overfalls, or South Shoal, entrance to Delaware Bay.—Petitions have been made during the past year to this office by the American Association of Masters and Pilots from Camden, N. J.; Boston, Mass.; New London, Conn., and from officers of the steam colliers and sea tugs of the Philadelphia and Reading Transportation Line for the establishment of a light vessel at the Overfalls, or South Shoal, entrance to Delaware Bay. While the entrance to Delaware Bay is well lighted and can be entered with safety in clear weather, the entrance is difficult and dangerous in thick and stormy weather. Neither the whistling buoy on South Shoal, nor the Daboll trumpet on Delaware Breakwater, can be heard always at a safe distance. Mariners

have been within half a mile of Delaware Breakwater with the Daboll trumpet in operation without being able to hear it.

The entrance to the Delaware Bay is shoal on the northern side from Cape May to the Overfalls buoy, and "steep to" at Cape Henlopen. This makes it the more necessary that this point should be well marked by a light vessel having a more powerful fog signal. It is estimated that such a light vessel should be established here for not to exceed \$70,000. Recommendation is therefore made that an appropriation of this amount be made for that purpose.

It is claimed that if the light vessel is established, the following changes, all in the interests of economy, can be made:

The Delaware Breakwater front and rear lights can be discontinued.

The Cape May light can be changed from the first to the third order.

Two post lights can be established in place of the Delaware Breakwater front light, a red one to be exhibited from the present building, and a white one on the extreme western end of the ice breaker. These two lights can be attended by one keeper, to occupy the present dwelling.

○

WIND SIGNAL DISPLAY STATIONS AT SOUTH MANITOU
ISLAND, LAKE MICHIGAN.

FEBRUARY 8, 1896.—Committed to the Committee of the Whole House on the state
of the Union and ordered to be printed.

Mr. CORLISS, from the Committee on Interstate and Foreign Commerce,
submitted the following

REPORT:

[To accompany H. R. 836.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 836) for the establishment of wind signal display stations at South Manitou Island, Lake Michigan, respectfully report the same back with an amendment, and recommend that the bill do pass.

The committee are of the opinion that the proposed legislation is necessary for the safety of vessels that are compelled to seek this great refuge harbor for safety, and that the interests of commerce and navigation require the additional protection insured by this measure.

The communication from the Secretary of Agriculture herewith submitted, and which is made a part of this report, shows the necessity for the additional protection and reason for the amendment suggested by the committee.

The committee recommend to amend the bill by inserting after the word "telegraph," in line 8, the words "or telephone."

UNITED STATES DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D. C., January 16, 1896.

SIR: In reply to your letter of the 6th instant, forwarding H. R. bill 836, and requesting a report on the same, I have the honor to state that the Chief of the Weather Bureau informs me that the sum of \$15,000 will be sufficient to construct and equip a telephone or telegraph line between Glen Haven, Mich., and South Manitou Island in Lake Michigan, and to establish the necessary wind signal display stations on the island.

I respectfully recommend that, if it is thought necessary to build this line, that the bill be so modified as to provide for the construction of a telephone or telegraph line. It would be more economical for the Weather Bureau to operate a telephone line, and the cost of construction would be less than for that of a telegraph line.

Very respectfully,

CHAS. W. DABNEY, Jr., *Acting Secretary.*

Mr. J. H. TEDFORD,
*Clerk Committee on Interstate and Foreign Commerce,
House of Representatives.*

UNITED STATES CIRCUIT AND DISTRICT COURTS IN
SOUTH DAKOTA.

FEBRUARY 8, 1896.—Referred to the House Calendar and ordered to be printed.

Mr. UPDEGRAFF, from the Committee on the Judiciary, submitted the
following

REPORT:

[To accompany H. R. 2290.]

The Committee on the Judiciary has had under consideration the bill (H. R. 2290) entitled, "A bill to provide for the time and place of holding the terms of the United States circuit and district courts in the State of South Dakota," and recommend that the same do pass with the following amendments:

Insert after the last word of line 1 in section 2 the words "circuit and"; also strike out the word "court" after the first word in line 2 of said section 2 and insert in lieu thereof the word "courts."

The bill is the same as the statute now in that State governing the subject, except that it makes a new division from what is now known as the "Southern." The times and places for the holding of the courts in the respective divisions are left unchanged. The times fixed for the terms in the new division do not conflict with existing provisions. The new division is contiguous and adjacent to the place where the court is proposed to be held, and is much nearer and more accessible by railway lines than as now constituted. The change proposed would lessen the distance to be traveled, would be much more convenient for the attendance of witnesses and jurors, as well as litigants, and would, in the opinion of your committee, result in a material and substantial saving to the Government.

Population of divisions of the judicial district of South Dakota as now constituted.

	Population.
Southern division	166, 990
Northern division.....	104, 600
Central division	21, 370
Western division.....	32, 130

Population of divisions under the proposed bill (H. R. 2290).

	Population.
Southern division.....	* 72, 490
Eastern division.....	* 94, 500
Northern division.....	104, 600
Central division.....	21, 370
Western division.....	32, 130

* Old southern division.

FRANK J. BURROWS.

FEBRUARY 8, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. Cox, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 539.]

The Committee on Claims, to whom was referred the bill (H. R. 539) for the relief of Frank J. Burrows, have had the same under consideration, and report:

A similar bill having been reported in the first session of the Forty-ninth Congress, and again in the first session of the Fifty-second Congress, the facts being so fully set forth in said reports, this committee adopts the same and makes it a part of this report, and recommends that the bill do pass.

[House Report No. 3326, Forty-ninth Congress, first session.]

The Committee on Claims, to whom was referred the bill (H. R. 3545) for the relief of Frank J. Burrows, having had the same under consideration, respectfully report:

That Frank J. Burrows was postmaster at the city of Williamsport P. O., Pa., from 1882 to ———; that on the 30th day of August, 1884, the said post-office was robbed of 50,000 1-cent postage stamps and 150,000 2-cent stamps, aggregating in value \$3,500, and also of \$522 in money.

The said robbery was committed about a quarter to twelve o'clock (noon), when the postmaster, clerks, carriers, and employes of the post-office were at dinner, with the exception of the assistant postmaster, the mailing clerk, and the delivery and stamp clerk. The mailing clerk was busy at his desk. The delivery and stamp clerk was at the general delivery window, and the assistant postmaster, Mr. Shay, was occupied in the money-order office in the rear part of the office. The stamps and money stolen were in an iron safe belonging to the Department, and furnished for that purpose by the Department. The stamps were in the original packages in which they had been sent to the post-office.

While so engaged as aforesaid a boy came in and told the assistant postmaster that a gentleman in a buggy in front of the door wished to speak to him. Mr. Shay, the assistant postmaster, at once left his work and went to the door. The man in the buggy said he was sorry to have brought him out, but he was lame and could not get out of the buggy. He then said that he wanted to ask him how he would have to proceed to get seeds from the Department, etc. Mr. Shay replied that he was not able to give him the information, but supposed he could get them through the member of Congress from his district. Mr. Shay then returned to his office, not having been gone, as he thinks, more than three or four minutes. That afternoon it was discovered that the stamps mentioned had been taken from the safe and packages similar in size and appearance substituted for them; also that the money mentioned had been stolen. It is supposed that while the man in the buggy engaged the assistant postmaster in conversation, a confederate, or confederates, entered by a side door from the alley or through a window and committed the robbery. Diligent effort was made by the postmaster and the inspectors and officials of the Post-Office Department to discover and apprehend the thieves, but without success.

A. G. Sharp, chief inspector, Post-Office Department, in a letter to Hon. William T. Price, dated January 13, 1885, in answer to one for information as to the robbery, says:

"A thorough examination was made by an inspector to ascertain if there was any evidence of collusion between the thieves and the employés of the Williamsport office, or any of them, but none could be found. * * * A rigid and searching investigation was made of the accounts of the office, and everything was found to be in good shape, except the losses before stated. The assistant postmaster has the absolute confidence of the postmaster, and, in fact, the confidence of everyone with whom he has come in business contact."

J. M. Speese, the inspector of the Post-Office Department who investigated the said robbery within a few days after the same was committed, states, in a letter written by him to a member of this committee: "This robbery was planned by ingenious and bold thieves from New York, and due vigilance could not have prevented its execution." He also states: "I have always found the Williamsport post-office intelligently and carefully managed, and the interests of the Department and the public carefully conducted."

The Post-Office Department, in a communication addressed to the Hon. Chas. N. Brumm, chairman of the Committee on Claims, under date of January 29, 1896, says, relative to this claim:

"I will, however, say that for several years this Department has been allowing claims for loss occurring under circumstances similar to this case, and if the claim was now presented to the Department for the first time, it would be recommended for allowance as coming within the purview of the act of Congress of May 9, 1888. (Sup. to R. S. of 1891, pp. 585-6.)

"Very respectfully,

"JOHN L. THOMAS,
"Assistant Attorney-General, Post-Office Department."

From all the evidence your committee conclude that no blame can attach to said postmaster for said loss, and, believing that he should have credit on his account with the Government for said loss as provided in the bill, recommend that the bill do pass.



FRANCIS A. FIELD.

FEBRUARY 8, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. FENTON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 2984.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2984) for the relief of Francis A. Field, submit the following report:

It appears that Francis A. Field enlisted in the Army of the United States on the 19th day of August, 1859, and was assigned to the Eighth Regiment United States Infantry; was appointed first sergeant Company F of said regiment, and served in that capacity until April 14, 1862, when he was promoted to a second lieutenancy in the Eleventh United States Infantry, and was promoted to the rank of first lieutenant June 20, 1863. He was again promoted, to the rank of captain, November 23, 1868, and brevetted to date from July 2, 1863, for "gallant and meritorious service in the battle of Gettysburg, Pa."

In connection with the above, it also appears that said Field served as adjutant of the provost guard, headquarters Army of the Potomac, from April 14, 1862, until July, 1862, and that he was engaged in the first battle of Bull Run, Va., the battle of the Peninsula, Seven Days' fight, Malvern Hill, Gettysburg, second Bull Run, Antietam, Chancellorsville, and others, serving throughout the war as regimental and battalion adjutant.

Under the provisions of the act of Congress approved March 3, 1869, he was, without any wish or desire on his part, placed on waiting orders because of the consolidation of the Eleventh and Thirty-fourth Regiments of Infantry, under the provisions of General Orders of the War Department, No. 16, of 1869, rendering him supernumerary. He, however, requested to be assigned to duty, and was placed on the staff of General Ames, and by him was ordered to duty as military mayor of Jackson, Miss., and served as such until August, 1869, when, at his own request, he was relieved from said duty and ordered to the Indian Territory as agent of the Creek tribe of Indians. While performing the duties of agent of said tribe he was, under date of August 30, 1870, honorably discharged under the provisions of the act approved July 15, 1870, the same to take effect October 1, 1870, or such time thereafter as he should be relieved from said duties or the exigencies of the service demanded, but was not finally discharged until April 10, 1871.

Said Field entered the service of his country at the age of 17 years, fully intending to adopt the service as a life profession, and after an honorable and faithful service of over twelve years, which unfitted him for the performance of other avocations, was discharged, but not because of any fault or improper conduct or wish or desire on his part.

In order that the Congress may be fully conversant with the military record of this gallant officer, there is submitted, in connection with this report, an exact copy of the records of the War Department; also the letter of the Honorable Acting Commissioner of Indian Affairs, setting

forth the satisfactory manner in which he rendered service during the period he acted as Indian agent.

Your committee are fully impressed with the belief that great injustice has been done this officer, and have no hesitation in recommending his reinstatement to the service in the same rank as he held at the date of his discharge, he to receive no pay for any period prior to his reinstatement under the provisions of this act. There are many precedents for such action which need not be enumerated in this report, and this appears to be one of the most deserving of such cases.

The reinstatement of this man, who seems to have rendered efficient and valuable services, was strongly recommended by Hon. Benjamin Harrison, of Indiana, afterwards President of the United States, in a letter dated November 8, 1886, which letter is a part of the papers in the case.

Hon. S. B. Elkins, under date of June 17, 1892—he then being Secretary of War—says, after detailing somewhat at length Captain Field's services:

Under the circumstances, I am of the opinion that the case of Captain Field involves special merit, which would seem to appeal for the favorable consideration of the bill now pending before your committee for his relief.

This bill also received a favorable report in the Fiftieth Congress.

The committee recommend that the bill do pass.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, May 19, 1888.

Statement of the military service of Francis A. Field, of the United States Army, compiled from the records of this office:

He served as a private, corporal, sergeant, and first sergeant of Company F, Eighth United States Infantry, from August 29, 1859, to May 8, 1862, when he was discharged for promotion.

He was appointed second lieutenant Eleventh United States Infantry, to rank from April 14, 1862; was promoted first lieutenant June 20, 1863; served as regimental adjutant from December 5, 1863, to December 5, 1866; and captain, November 23, 1868. He received the brevet of captain July 2, 1863, "for gallant and meritorious services in the battle of Gettysburg, Pa."

He served with his regiment in the campaigns of the Army of the Potomac from May, 1862, to January, 1864; at Fort Independence, Mass., to March, 1866; at Richmond, Va., to March, 1869, and in Mississippi to April 14, 1869, when he became unassigned by reason of the consolidation of his regiment; was on reconstruction duty in the Fourth Military District (Mississippi) to July 24, 1869, and as Indian agent at the Creek Indian Agency, Ind. T., to April 10, 1871.

At his own request, under the provisions of the act of Congress approved July 15, 1870, section 3, he was honorably discharged from the service of the United States, to date October 1, 1870, "or as soon thereafter as he can be relieved from duty as Indian agent."

R. C. DRUM, *Adjutant-General.*

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, May 22, 1888.

SIR: The records in this office show that you filled the position of acting agent for the Creek Indians from the fall of 1869 up to the middle of April, 1871. Your accounts appear to have been rendered promptly, and I see no evidence other than that your services were entirely satisfactory to this Department. You were relieved from duty on your own repeated and earnest request, and a copy of office letter of April 18, 1871, herewith, shows that all exceptions to your accounts up to the commencement of the fourth quarter, 1870, were satisfactorily explained, and the books here show that no exception was taken to your account from the beginning of said fourth quarter, 1870, up to the termination of your service as acting agent, viz, April 10, 1871.

Respectfully,

A. B. UPSHAW, *Acting Commissioner.*

Capt. FRANCIS A. FIELD,
Ex-United States Acting Indian Agent, Indiana.

WILLIAM H. DE FREEST.

FEBRUARY 8, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CURTIS, of New York, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 3852.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 3852) to amend the record of William H. De Freest, having considered the same, report it back to the House with a recommendation that it do pass.

In the Fifty-first Congress, and also in a subsequent Congress, this committee favorably reported the bill with an amendment, which is incorporated in the present bill. That report, which we adopt, is as follows:

The said De Freest was second-lieutenant of Company B, First Regiment of Iowa Cavalry, and was cashiered by sentence of general court-martial promulgated August 21, 1863, for two instances of intoxication, being found not guilty on some of the specifications. This was done after two years of actual service in the regiment, and however well founded at the time, it answered its purpose so far as the good of the service was concerned, and now after twenty-seven years have passed there seems to be no reason why this soldier should rest under this stigma.

From the evidence on file it is conclusively shown that said De Freest has since the war lived an upright life, and has abstained from the use of intoxicants for the past seventeen years. The merits of his claim are attested to by letters from Samuel J. Kirkwood, late governor of Iowa, and Daniel Anderson, late colonel of the regiment in which said De Freest served during the war.

CHARLES E. JONES.

FEBRUARY 8, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. KIRKPATRICK, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany S. 249.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 909) granting a pension of \$50 per month to Charles E. Jones, late photographer of the Eleventh Pennsylvania Volunteer Cavalry, for consideration in connection with Senate bill 249, which passed the Senate January 21, 1896, granting a pension of \$30 per month to the said Charles E. Jones, having carefully examined and considered the facts and circumstances in evidence in this case, respectfully attach hereto the report of the Senate Committee on Pensions and adopt it as their report in this case, and adopt Senate bill 249 as a substitute for House bill 909, and earnestly recommend that the same do pass.

[Senate Report No. 21. Fifty-fourth Congress, first session.]

The Committee on Pensions, to whom was referred the bill (S. 249) granting a pension to C. E. Jones, have examined the same, and report:

This bill passed the Senate during the Fifty-third Congress.

Claimant was not an enlisted man, and hence not pensionable under the general law. He was employed as a photographer, and in that capacity rendered valuable service to the Union cause. Not only did he faithfully perform his duties as a photographer, but the evidence clearly shows that he performed actual military service, and that while thus engaged he received a gunshot wound which has resulted in almost total blindness.

There seems to be no question as to the incurrence of the disability, the affidavit of Capt. R. B. Ward, herewith appended, being conclusive on that point. Many other affidavits are on file which tend to confirm Captain Ward's statement. Had claimant been an enlisted man there can be no reasonable doubt of his right to pension, and having performed actual military service, and being wounded while thus engaged, the duty of Congress to come to his relief is clear and imperative.

Your committee recommend the passage of the bill.

AFFIDAVIT OF CAPT. R. B. WARD.

STATE OF MISSOURI, *County of Jackson*, ss:

In the matter of Charles E. Jones, claimant.

On this 5th day of September, A. D. 1890, personally appeared before me, a notary public in and for said county, duly authorized to administer oaths, Robert B. Ward, age 61 years, a resident of Kansas City, in the county of Jackson and State of Missouri, whose post-office address is Kansas City, Mo., well known to me to be reputable and entitled to credit, and who, being duly sworn, declared in relation to aforesaid case, as follows:

"I have known above claimant, Charles E. Jones, since the spring of 1862, when

he came to and joined the Eleventh Pennsylvania Cavalry as photographer, I being captain of Company D of said regiment. Said claimant was not an enlisted man, but I know of him being in several engagements under military orders, and in April, 1863, I know of my personal knowledge that the said Charles E. Jones was ordered to take photographic view of Longstreet's fortifications at the siege of Suffolk, in the State of Virginia, and while performing his duty, acting under orders of Gen. John Peck, commanding officer, said claimant, Charles E. Jones, received gunshot wound from Longstreet's sharpshooters in the small of back, across the spine, which affected his eyesight and has caused blindness of both eyes to such an extent that said claimant has to be accompanied with a guide at all times to walk around, rendering him as good as totally blind.

"R. B. WARD."

Subscribed and sworn to before me this 5th day of September, 1890.

[SEAL.]

ROBERT S. RODGERS, *Notary Public*.

AFFIDAVIT OF W. D. HOOVER, M. D.

STATE OF KANSAS, *County of Miami, ss:*

In the matter of appeal for pension through special act of Congress by Charles E. Jones, regimental photographer, Eleventh Regiment Pennsylvania Cavalry Volunteers.

On this 29th day of October, A. D. 1894, personally appeared before me, a notary public in and for the said county, duly authorized to administer oaths, W. D. Hoover, aged 60 years, a resident of Paola City, in the county of Miama and State of Kansas, well known to me to be reputable and entitled to credit, and who, being duly affirmed, declares in relation to aforesaid case as follows: "That I have been acquainted with the said Chas. E. Jones since 1867, when he first came to Paola, Kans., and that his eyes were diseased then, and that they continued to grow worse until he became totally blind, or nearly so. He can just barely grope his way with the use of his cane. He received a gunshot wound across the small of his back while in the line of duty in the Army during the late war. The ball passed across the back just over the second lumbar vertebræ, and has left a scar over one-half an inch across and more than an inch in length. It is a wonder it did not cause paraplegia. His eyes became affected before he recovered from the wound in the back, and I am of the opinion, taking the prostrated condition of his system, especially the nervous system, into consideration, if the wound in the back was not a primary cause of the disease of the eye it certainly was a secondary cause. Said Jones has been a good citizen during his residence here.

"The above is from my personal observation of the case, and is written by myself."

His post-office address is Paola, Kans., and further declares that he has no interest in said case, and is not concerned in its prosecution.

W. D. HOOVER, M. D.

STATE OF KANSAS, *County of Miama, ss:*

Sworn to and subscribed before me this day by the above-named affiant, and I certify that I read said affidavit to said affiant, including the words erased and the words added, and acquainted him with its contents before he executed the same. I further certify that I am in nowise interested in said case, nor am I concerned in the prosecution; and that said affiant is personally known to me, and that he is a credible person.

[L. S.]

(My term expires March 27, 1895.)

WARD J. CARPENTER, *Notary Public*.

JONATHAN SCOTT.

FEBRUARY 8, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. KIRKPATRICK, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 4526.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4526) granting a pension to Jonathan Scott, submit the following report:

The beneficiary, Jonathan Scott, was a member of Company M, Sixth Regiment Iowa Cavalry, and served for three years, receiving an honorable discharge from the service. He was subsequently pensioned for disease to his eyes contracted in the service, and his pension increased from time to time as the disease progressed, until he lost the sight of his eyes entirely, when the pension was increased to \$72 per month. He was drawing this rate of pension up until about November or December, 1895, when he was entirely dropped from the roll, for the alleged reason that his eyes were diseased at the time he entered the service. The testimony filed in the Pension Office is very voluminous, but there can be no question but the great preponderance of the testimony shows that the soldier's eyes when he entered the service were sound and free from disease, and that the injury thereto was occasioned while in the service and in the line of duty.

This case was placed in the hands of a special examiner who secured the testimony of two or three witnesses at the former residence of the soldier in Missouri, hostile to him, who testified that the soldier's eyes were weak when he entered the service. But in opposition to this is the sworn testimony of many neighbors, who have known the soldier prior to his enlistment for months and who were intimately acquainted with him from his childhood, who state emphatically and positively that his sight was not defective in the least, and that if he had been afflicted with weak eyes they would have known it. Notwithstanding this great preponderance of the evidence in the soldier's favor he was dropped from the roll and is now receiving no pension whatever.

Your committee believe that no unbiased man, on examining this mass of testimony, could reach any conclusion except that this claimant has been unjustly deprived of his pension. The committee therefore report the bill back to the House, with the recommendation that it do pass.



SOPHIA J. HAMILTON.

FEBRUARY 8, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. THOMAS, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 569.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 569) granting a pension to Sophia J. Hamilton, widow of Charles S. Hamilton, major-general of volunteers, after carefully considering the same, respectfully report:

Maj. Gen. Charles S. Hamilton served with great distinction in the war with Mexico and in the war of the rebellion. His military services, compiled from the records of the Adjutant-General's Office, are as follows:

He graduated at the United States Military Academy in 1843. He joined the Fifth Infantry in July, 1846, and served with it in Mexico in the war with that country, and was severely wounded in the battle of Moline del Rey September 8, 1847. Sick in the City of Mexico from wounds to November, 1847; on duty with his regiment in Mexico to the close of the war.

Besides the battle of Moline del Rey, he participated in the battle of Monterey, siege of Vera Cruz, capture of San Antonio, and battle of Churubusco.

Capt. William Chapman, Fifth Infantry, commanding regiment, says:

Lieut. C. S. Hamilton, commanding Company I, was severely wounded early in the action while urging his company on, but he raised himself up with assistance and continued cheering and encouraging his men until they were beyond the reach of his voice.

His civil-war record is as follows: He entered the volunteer service as colonel Third Wisconsin Infantry, May 11, 1861, and commanded the regiment in Maryland to August 31, 1861. He was appointed brigadier-general of volunteers to rank from May 17, 1861, and major-general September 19, 1862.

He commanded a brigade in General Bank's division, Army of the Potomac, to March 15, 1862; the Third Division, Third Corps, to May 2, 1862, and the left, wing Army of the Mississippi from June 15 to August, 1862; on leave to September 15, 1862; commanded the Third Division, Army of the Mississippi, to October 26, 1862; the district of Corinth to January 10, 1863; the Sixteenth Army Corps to February 5, 1863; and district of Corinth and Jackson, Miss., to April 13, 1863, upon which date he resigned. He subsequently served as captain and provost-marshal, fourth district of Wisconsin, March 11 to October 15, 1865, when honorably discharged.

General Grant, in his report of the battle of Iuka, October 22, 1862, says:

It was a part of General Hamilton's command that did the fighting, directed entirely by that bold and deserving officer. I commend him to the President for acknowledgment of his services.

General Rosecrans, in General Order No. 152, dated October 25, 1862, to the Army of the Third Division of the district of the West Tennessee, in regard to the battle of Corinth, says:

It would be to me a great pleasure for me to signalize in this general order those whose gallant deeds are recorded in the various reports, but their number forbids. I will only say that to General Hamilton * * * and the brigadier and regimental commanders under them I offer my thanks to the gallant and able manner in which they have performed their several duties.

General Hamilton left the service of his country in broken health; his disabilities were progressive until he became practically helpless. Owing to the condition of his health, he lost much of his property, and at the time of his death left his widow in dependent circumstances. The Fiftieth Congress, by special act, pensioned the General at \$50 per month in recognition of his eminent services.

His widow is now 71 years old and is greatly in need of the relief provided in the bill. The bill is reported favorably with the recommendation that it do pass.



PRINTING MONOGRAPHS, BULLETINS, ETC., GEOLOGICAL
SURVEY.

FEBRUARY 11, 1896.—Ordered to be printed.

Mr. PERKINS, from the Committee on Printing, submitted the following

REPORT:

[To accompany S. R. 59.]

The Committee on Printing, to whom was referred the above Senate joint resolution, having had the same under consideration, report it back with the recommendation that it do pass.

This resolution simply relates to the further distribution of monographs, bulletins, and reports of the Geological Survey, and involves no additional expense in the publication of the same to that already provided for under existing law.

The following letter from the Director of the Geological Survey is made a part of this report:

DEPARTMENT OF THE INTERIOR,
UNITED STATES GEOLOGICAL SURVEY,
Washington, D. C., February 6, 1896.

DEAR SIR: I notice in the Record that joint resolution 59 passed the Senate, and I presume that it is now before your committee.

I desire to invite your attention to the fact that this resolution provides only for distribution and that the publication of the documents therein referred to is already provided for. (See Supplement Rev. Stat., vol 1, 2d ed., p. 252, paragraph 11.) This act provides that 3,000 copies of each shall be published, etc.

This matter was brought to the attention of the Committee on Printing when preparing an act providing for the public printing and binding, but it was not then considered necessary to repeat the original law. The question arose, however, when the matter was brought to the attention of the Public Printer, and to avoid all doubt, a clause was inserted in the sundry civil bill, approved March 2, 1895, which reads as follows:

"*Provided*, That hereafter 3,000 copies of the monographs and bulletins of the Geological Survey shall be published for scientific exchanges and for sale." * * *

In the printing bill, section 79, it is provided that—

"There shall be distributed of the monographs, bulletins, and reports now in possession of said Survey, being publications prior to the year 1894, one copy of every such publication to every public library which shall be designated to the superintendent of documents as follows: Two public libraries to be designated by each of the Senators from the States, respectively, two public libraries by the Representative in Congress from each Congressional district, and two public libraries by the Delegate from each Territory; such public libraries to be additional to those to which said publications are distributed under existing law."

The resolution before you provides for the continuation of the distribution authorized above, and does not involve any printing other than that authorized by the organic law of the Survey and reaffirmed in the sundry civil bill approved March 2, 1895.

I submit this data, as it may be that some one will ask as to the cost involved, should the resolution become a law. It does not involve any new printing, but provides for a systematic method of distribution of publications already provided for.

Yours, with respect,

CHARLES D. WALCOTT, *Director.*

Hon. GEORGE D. PERKINS,
Chairman House Committee on Printing.

LORENZO THOMAS, JR., AND HENRY C. THOMAS.

FEBRUARY 11, 1896.—Laid on the table and ordered to be printed.

Mr. AVERY, from the Committee on War Claims, submitted the following

ADVERSE REPORT:

[To accompany H. R. 3710.]

The Committee on War Claims, to whom was referred the bill (H. R. 3710) for the relief of Lorenzo Thomas, jr., and Henry C. Thomas, submit the following report:

This claim is for the sum of \$40,399, the alleged value of property taken from them in Alexandria County, Va., during the late war for the suppression of the rebellion.

This claim was investigated by the Commissioners of Claims, commonly known as the "Southern Claims Commission," under the provisions of the Act of March 3, 1871, and the claimants allowed and paid \$6,500, and the Commission rejected the remainder. The claimants accepted the sum so allowed without protest, and signed a receipt acknowledging it to be in full of the whole claim (see 17 Stat. L., p. 697).

The committee hold that the payment of the award made by the Commissioners of Claims, and a receipt given in full payment of the whole claim, was a bar to any further claim upon the Government, and report adversely to the bill and recommend it do lie upon the table.

ISAAC S. MYERS.

FEBRUARY 11, 1896.—Laid on the table and ordered to be printed.

Mr. AVERY, from the Committee on War Claims, submitted the following

ADVERSE REPORT:

[To accompany petition.]

The Committee on War Claims, to whom was referred the petition of Isaac S. Myers, submit the following report:

This claim is for stores and supplies alleged to have been furnished the Army during the late war; claim stated at \$1,592.75.

The claim was filed before the Southern Claims Commission and was disallowed by that Commission. In their report to Congress in this case the Commission say:

When the ordinance of secession was submitted to the people of Virginia, the claimant, who was then an elector and resident of Augusta County, voted for its ratification. This was favoring secession—an act as clearly disloyal to the United States as bearing arms in the Confederate army. Mr. Myers says he voted against his conscience, and that he was intimidated. We can not accept his conclusions. He should have shown us how he was intimidated. His is the ready excuse offered by Virginia claimants where the record of the viva voce vote under the old constitution is against them. We must disallow the claim for want of satisfactory proof of loyalty.

The case has been fully heard in the Southern Claims Commission having jurisdiction, and an adverse decision had upon the question of loyalty.

The committee therefore report adversely to the petition, and ask that it do lie upon the table.



ESTATE OF FAYETTE HUNGERFORD, DECEASED.

FEBRUARY 11, 1896.—Laid on the table and ordered to be printed.

Mr. AVERY, from the Committee on War Claims, submitted the following

ADVERSE REPORT:

[To accompany H. R. 5118 and H. R. 5119.]

The Committee on War Claims, to whom was referred the bills (H. R. 5118 and 5119) for the relief of the estate of Fayette Hungerford, deceased, submit the following report:

The facts out of which these bills for relief arise will be found stated in House report from the Committee on War Claims of the Fifty-third Congress, a copy of said report being hereto attached and made a part of this report.

Your committee report adversely, and recommend that the bills do lie upon the table.

[House Report No. 1968. Fifty-third Congress, third session.]

The Committee on War Claims, to whom was referred the bill (H. R. 6509) for the relief of Fayette Hungerford, submit the following report:

This is a claim for use and occupation of property at Memphis, Tenn., by United States naval forces during the late war. Claim stated at \$26,520.45.

The history of the claim is given in a letter from Hon. W. C. Whitney, then Secretary of the Navy, to A. Porter Morse, under date of February 10, 1888, a copy thereof being hereto attached, and made a part of this report.

The committee see nothing in the facts that would warrant favorable action. They therefore report adversely to the bill, and recommend it do lie upon the table.

NAVY DEPARTMENT, *February 10, 1888.*

SIR: Referring to your application under date of November 30, 1887, as attorney for Fayette Hungerford, for the transmission by this Department to the Court of Claims, "agreeably to provisions of section 1063, Revised Statutes," of the claim hereinafter described, I have to state that, upon an examination of the case, the Department found it necessary to refer to the history of the claim and to examine in detail the previous action of the Department thereon in order that a just and reasonable conclusion might be reached with reference to final action on the present application.

The claim is, in substance, for compensation for certain movable property at Memphis, Tenn., alleged to have passed into the possession of the United States on the occupation of that city by the Union forces in the year 1862, and for the use of the premises, with the fixtures and appurtenances thereof, upon which said property was then situated. The buildings containing said property and the land on which they were situated were, as appears by the record in this case, a part of the premises known as the "old navy-yard" at Memphis, which has been transferred by the United States to the city of Memphis.

The property in question, as described in the printed argument of counsel for claimant, which accompanies the papers returned to this Department by the Second

Comptroller, consisted of valuable machinery and material, previously used in the manufacture of "cars, cotton gins, wagons, carts, and other articles," but adaptable to the manufacture of articles required for military use, such as gun carriages, ambulances, ammunition, etc.

It appears that, in December, 1862, an inventory of said property was taken under the direction of the naval officer then in command off Memphis, but it does not appear that any appraisement or estimate of the value thereof was made at that time. It further appears that said property was, prior to the occupation of Memphis by the Union forces, owned or controlled by three persons, viz: Anthony Street, Fayette Hungerford (the present claimant), and Shepard Jackson, and was inventoried as belonging to "Street, Hungerford & Jackson," who were lessees of the premises from the city of Memphis; that while Memphis was held by the Confederate forces the property was used in manufacturing gun carriages and other military articles and appliances for their use; that this was done with the approval and consent of Street and Jackson, but against the wishes of Hungerford, who was from the North and who is alleged to have been always loyal to the Union, evidence to that effect constituting a part of the record; that when the Union forces entered Memphis Street and Jackson left; that Jackson entered the military service of the Confederacy, and, while holding the rank of colonel, was killed in battle; that Hungerford returned to the North, taking with him the books of the firm, and that Street survived until June, 1874, when he died in Arkansas.

In 1871 the original claim in this case was considered by this Department on the application of Fayette Hungerford, through his attorney S. M. Johnson, as sole owner of the property referred to, and which he alleged to be worth \$230,000. This claim embraced the entire property described or referred to in the above-mentioned inventory, but it appears by a certificate from Admiral Porter that the machinery included in the inventory was subsequently transferred to the navy-yard which had been temporarily established at Mound City, Ill. It further appears by a certificate from Capt. Thomas Pattison, U. S. N., who, after the occupation of Memphis, was placed in command of the "old navy-yard" at Memphis in March, 1863, and remained until the close of the war, that the value of the property mentioned in the inventory was \$75,000, and it further appears by the record that that sum was, on July 14, 1871, paid to Johnson, as Hungerford's attorney, in full settlement of the entire claim.

In 1874 a further claim was presented to the Department by Fayette Hungerford through another attorney, the late Henry Sherman, for the value of the property remaining in possession of the naval authorities at Memphis after the transfer of machinery, etc., to Mound City in 1863, the theory of such claim being that the settlement which had taken place in 1871 related only to the property which had been thus removed and did not include that which was left at Memphis. It was alleged, therefore, that a balance of \$159,934.76 remained due to Mr. Hungerford after crediting the Government with the sum of \$75,000 paid in 1871, the total value of the property being estimated at \$234,934.76.

This claim was rejected by the Department December 5, 1874, on the ground, among others, that the settlement of 1871 was in full. The same view was subsequently held by the accounting officers of the Treasury.

In 1875 the case was reopened by direction of the President and a special board was appointed by the Secretary of the Navy to reexamine the claim, which board reported, in substance, that property belonging to the firm of Street & Hungerford, estimated to be worth about \$60,000, had been used by the Government at Memphis from 1863 to the close of the war, but owing to the "imperfect and unsatisfactory evidence" before it, the board, while conceding that some compensation for such use might be justly due to Street & Hungerford, was unable to determine, with any degree of accuracy, either the value of the property or the amount of such compensation.

It further appears that the substance of said report was communicated by the Secretary of the Navy to the Second Comptroller, in July, 1875, with a view of ascertaining whether there was any available appropriation out of which, in case an allowance should be made, the same could be paid, to which inquiry the Comptroller replied that it could not be paid without a direct violation of law, and that an appropriation by Congress would be indispensable. The claim was afterwards, in December, 1875, referred by the Secretary of the Navy to the accounting officers to state an account, and, in December, 1876, they refused to allow the same.

In 1877 the claim was again urged by Mr. Sherman, as Hungerford's attorney, before the Department in a modified form, the amount then claimed being \$86,520.45, composed of two items—one of \$60,000 as the value of the property left at Memphis, and one of \$26,520.45 as an allowance for rent, use, and occupation of the premises—over \$22,500 of the latter item being for rent at the rate paid to the city authorities by Street, Hungerford & Jackson previous to the occupation of Memphis, viz, \$6,000 per annum. This modified claim was, in February, 1878, at the special request of the claimant's attorney, transmitted by the Department to Congress, together

with other claims requiring appropriations for their payment, for such action thereon as Congress might deem just and proper.

As appears by a letter from Hungerford's attorney, dated February 6, 1879, no action upon the claim thus submitted was taken by Congress for the reason that, under the act of June 14, 1878, it became necessary that the amount due the claimant should be reported to Congress by the Secretary of the Treasury after examination by the accounting officers. The claimant therefore requested that the claim be referred to the Fourth Auditor for examination and adjustment under said act. This request was complied with by the transmission, to the Fourth Auditor, under date of September 3, 1879, of all papers on file in the Department relating to said claim. No further action on the claim appears to have been had until 1887, when application was made to the accounting officers, on behalf of the claimant, for a return of the papers to this Department or their reference to the Court of Claims.

On the 29th of November, 1887, the Second Comptroller returned the claim to this Department with a statement to the effect that he regarded the claim, so far as the accounting officers were concerned, as having been adjudicated in 1876, when it was rejected; that there were no sufficient grounds for a reconsideration thereof by the accounting officers or for its reference to the Court of Claims, and that, in accordance with the alternative request of the claimant's attorney, he returned the claim and all papers relating thereto and on file in his office to the Secretary of the Navy for such action thereon as he might deem proper.

In considering your application for a reference of this claim to the Court of Claims the Department has deemed it proper to consider it not only with regard to its legal status but also with regard to such equities as might be found to be involved in the final action of the Department on the application.

Referring first to the equitable aspect of the claim, it appears that the property in question was owned, either in equal or unequal proportions, by three persons, viz: Anthony Street, Fayette Hungerford, and Shepard Jackson; the presumption being, however, according to the weight of evidence, that they were in fact, if not in name, equal owners. The evidence now presented respecting copartnership seems to indicate the existence of a firm composed only of Anthony Street and Fayette Hungerford, but there is no sufficient evidence to disprove the partial ownership of Shepard Jackson.

The evidence submitted to show that, at the time of the occupation of Memphis by the Union forces, the property in question was owned solely by Fayette Hungerford, is wholly insufficient to establish that fact; but the fact that Street and Jackson were not loyal citizens of the United States and could not, therefore, recover damages for the use or occupation of their property by the United States under the circumstances appearing in this case, is clearly established. Hungerford was, consequently, as a loyal citizen, the only one of the three entitled to compensation, and the measure of such compensation would, strictly speaking, be his proportion of the loss or damage sustained. It appears, however, that, on the settlement of the claim in 1871, he received, not only his own share but also that which, had his copartners been loyal citizens, they alone would have been entitled to receive, but which, not being loyal citizens, they could not recover except by special authority from Congress.

According to this view of the case, and if the property was owned by Street, Hungerford & Jackson, as the evidence tends to show, Hungerford received, on the settlement in 1871, \$50,000, or, if the property belonged only to Street and Hungerford, \$37,500 more than he was entitled to. Therefore, if the value of the property left at Memphis, as estimated by the board in 1875, viz, \$60,000 and the claim for use and occupation, viz, \$26,520.45, were both admitted, making a total of \$86,520.45, and if the property belonged to Street, Hungerford & Jackson, Hungerford's share would be one-third, viz, \$28,840.15; if the property belonged to Street & Hungerford only, Hungerford's share would be one-half, viz, \$43,260.23. Consequently, on the assumption that the claim for \$86,520.45 is just, he was either overpaid in 1871 to the extent of \$8,659.85, or he was underpaid to the extent only of \$5,760.23.

But, in the opinion of the Department, so much of the claim for use and occupation of the premises while in possession of the Union forces as is based on the rate of rent previously paid to the city of Memphis, viz, \$6,000 per annum, must be excluded, for the reason, first, that there is no evidence to show that any claim for such rent for the period in question has ever been made by the city of Memphis; and, secondly, that if any such claim should be made there is no probability, under the circumstances of this case, that it could be enforced against Hungerford. This would reduce the item for use and occupation to about \$4,000 and the total claim to \$64,000, leaving Hungerford's share either one-third, viz, \$21,333.33, or one-half, viz, \$32,000, and the excess paid him in 1871 either \$16,166.67 or \$5,500.

Referring to the legal status of the claim, the Department, in view of the fact that the claim as originally presented for the value of the entire property, including the property now in question, and for all damages arising from the appropriation or use of the same, or any part thereof, by the United States, was fully and finally set-

tled by the payment of \$75,000 in 1871, which settlement was affirmed on an application for reconsideration of the claim in 1874, is of opinion that the claim now submitted has been heretofore decided, adjusted, and paid; that all liability on the part of the United States for the value or use of the property in question, or of any part thereof, was by such decision, adjudication, and payment, finally extinguished, and, consequently, that there is now no valid and subsisting claim in the premises against the United States.

This view is sustained by the fact that the claim has since such settlement been twice rejected by the accounting officers of the Treasury. The Department is further of opinion that no action had on the claim, subsequently to the full and final settlement thereof in 1871, can be held to have revived the claim or to have given it such a status as would warrant its reference to the Court of Claims. The Department must therefore decline to make such reference.

Very respectfully,

W. C. WHITNEY,
Secretary of the Navy.

A. PORTER MORSE, Esq.,
*Attorney for Fayette Hungerford, 1505 Pennsylvania avenue,
Washington, D. C.*

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CERTAIN LOYAL CITIZENS OF LOUDOUN COUNTY, VA.

FEBRUARY 11, 1896.—Laid on the table and ordered to be printed.

Mr. AVERY, from the Committee on War Claims, submitted the following

ADVERSE REPORT:

[To accompany H. R. 557.]

The Committee on War Claims, to whom was referred the bill (H. R. 557) for the relief of loyal citizens therein named, of Loudoun County, Va., submit the following report:

This bill provides for the appropriation and payment to various citizens alleged to be loyal, of Loudoun County, Va., or to their legal representatives, respectively, and in full indemnity to them by the National Government for the losses sustained by them by the carrying out of a certain order of Major-General Sheridan, dated November 27, 1864, the aggregate sum of \$199,228.24.

On the 27th day of November, 1864, Major-General Sheridan issued the following order:

HEADQUARTERS MIDDLE MILITARY DIVISION,
November 27, 1864.

GENERAL: You are hereby directed to proceed, to-morrow morning at 7 o'clock, with two brigades of your division now in camp to the east side of the Blue Ridge, via Ashbys Gap, and operate against the guerrillas in the district of country bounded on the south by the line of the Manassas Gap Railroad, as far east as White Plains; on the east by the Bull Run Range; on the west by the Shenandoah River, and on the north by the Potomac.

This section has been the hotbed of lawless bands who have from time to time depredated upon small parties on the line of the army communications, on safeguards left at houses, and on small parties of our troops. Their real object is plunder and highway robbery.

To clear the country of these parties that are bringing destruction upon the innocent as well as their guilty supporters by their cowardly acts, you will consume and destroy all forage and subsistence, burn all barns and mills and their contents, and drive off all stock in the region, the boundaries of which are above described. This order must be literally executed, bearing in mind, however, that no dwellings are to be burned and that no personal violence be offered the citizens.

The ultimate results of the guerrilla system of warfare is the total destruction of all private rights in the country occupied by such parties. The destruction may as well commence at once and the responsibility of it must rest upon the authorities at Richmond, who have acknowledged the legitimacy of guerrilla bands.

The injury done to this army by them is very slight; the injury they have indirectly inflicted upon the people and upon the rebel army may be counted by millions.

The reserve brigade of your division will move to Snickersville on the 29th. Snickersville should be your point of concentration, and the point from which you should operate in destroying toward the Potomac.

Four days' subsistence will be taken by your command. Forage can be gathered from the country through which you pass.

You will return to your present camp, via Snickersville, on the fifth day.

By command of Major-General Sheridan.

JAMES W. FORSYTH,
Lieutenant-Colonel and Chief of Staff.

Brevet Major-General MERRITT,
Commanding First Cavalry Division.

This order was promptly executed. In February, 1865, the claimants presented their petition in Congress for compensation, not only for the destruction of their barns and contents, but for the live stock driven off, but no final action thereon was had till the Forty-second Congress, in which a bill appropriating \$61,821.13 to pay for such live stock was passed and the same carried into effect. (See vol. 17, Stat. L., p. 713.)

This bill is for the payment of certain claims for the destruction of property—which strictly comes under the head of “ravages of war.” It asks for the payment of that certain class of claims so often heretofore presented to Congress since the war of the rebellion, viz, for destruction of houses and barns by the military forces of the United States in the enemy’s country, but none of which have been favorably acted upon. I do not think the nation is yet prepared to pay such claims. I admit that it is a great hardship to those who were at the seat of war to have to bear such losses. If, however, the Government should undertake to make good all such it would impose a burden upon the whole people as great or greater than the entire expenditure incurred in suppressing the rebellion.

Not only the loyal inhabitants of Virginia but those of every border State and of all the insurrectionary States sustained like losses.

The Committee on Claims of the Senate in the Forty-fourth Congress, first session, having this claim under consideration, addressed a communication to the Secretary of War, making inquiry as to whether or not Loudoun County was held by the military forces of the United States at the time this property was destroyed, and under date of March 14, 1876, he answered as follows, viz:

It does not appear that any portion thereof (that is, of Loudoun County) was either permanently or exclusively held by the military forces of the United States at any time during the month of November, 1864.

The Senate committee add:

It seems, therefore, that Loudoun County at the time said property was destroyed was not only legally but actually the enemy’s country.

The report of the majority of the Committee on War Claims takes issue with the Secretary of War upon this statement. General Sheridan, when he issued the order, was of that opinion, and I do not feel that it would be proper for me to presume to set that opinion or the opinion of the Secretary of War at naught. “This section,” General Sheridan says in his order, “has been the hotbed of lawless bands, who have from time to time depredated upon parties on the line of the army communications and on small parties of our troops.” This territory was filled with lawless bands of irregular troops, who carried on a guerrilla system of warfare to such an extent as to become unbearable, and this destruction was necessary to stop these depredations and the annoyance caused by these lawless bands.

It has always been the law of this country that for such destruction of property the Government is not obliged to make compensation.

Your committee is of opinion that the payment of the \$61,821.13 by the Forty-second Congress was a bar to any further claim upon the Government, and that it would be an unwise precedent to open the case.

The committee therefore report adversely, and recommend that the bill do lie upon the table.

JAMES LINDSAY.

FEBRUARY 11, 1896.—Laid on the table and ordered to be printed.

Mr. AVERY, from the Committee on War Claims, submitted the following

ADVERSE REPORT :

[To accompany H. R. 3976.]

The Committee on War Claims to whom was referred the bill (H. R. 3976) for the relief of James Lindsay, submit the following report:

The bill, to quote its language, “authorizes and directs the Secretary of the Treasury to pay James Lindsay, late of Ironton County, Mo., the sum of \$18,094 for losses alleged to have been sustained by him by the raid of General Price and his rebel forces on the 27th day of September, 1864.”

The committee hold that the Government is not prepared to pay such claims. We admit that it is a great hardship to those who were at the seat of war to have to bear such losses. If, however, the Government should undertake to make good all claims for property destroyed by the enemy, it would impose a burden upon the whole people as great or greater than the entire expenditure incurred in suppressing the rebellion.

Your committee report that it would be unwise to set the precedent of paying claims of this nature, and report adversely to the bill.



MRS. LAURA J. BEMISS.

FEBRUARY 11, 1896.—Laid on the table and ordered to be printed.

Mr. AVERY, from the Committee on War Claims, submitted the following

ADVERSE REPORT:

[To accompany H. R. 1366.]

The Committee on War Claims, to whom was referred the bill (H. R. 1366) for the relief of Mrs. Laura J. Bemiss, submit the following report:

This bill asks an appropriation of \$102,165, for property and supplies alleged to have been furnished the Army of the United States during the late war.

This claim was investigated thoroughly by the Southern Claims Commission under the terms of the act of March 3, 1871, and the claimant allowed a full and fair hearing. The Commission allowed the sum of \$27,310 and rejected the remainder of \$102,165. The claimant accepted the sum so allowed without protest and signed a receipt acknowledging it to be in full of the whole claim. (See vol. 19, Stat. L., p. 479.)

The committee hold that the payment of the award made by the Commissioners of Claims, and a receipt given in full payment of the whole claim, was a bar to any further claim upon the Government. Unless the claimant is barred under the circumstances stated, it would be difficult for the Government to determine when there would be an end to claims put forth against it.

The Supreme Court of the United States decided that a voluntary acceptance by a claimant of a sum smaller than one claimed as a full satisfaction of the whole, and acknowledging this in a receipt for the amount paid, the demand having been disputed for a long time, and the smaller sum accepted without objection or protest, is a bar to further claim (*United States v. Child & Co.*, 12 Wall., p. 232).

The committee report adversely to the bill, and recommend it do lie upon the table.

SUSANNAH P. SWOOPE.

FEBRUARY 11, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MAHON, from the Committee on War Claims, submitted the following:

REPORT:

[To accompany H. R. 354.]

The Committee on War Claims, to whom was referred the bill (H. R. 354) for the relief of Susannah P. Swoope, submit the following report:

This claim was presented to the Committee on War Claims of the Fifty-second Congress, and was favorably reported upon by that committee. A careful examination of the facts involved brings your committee to the same conclusion as that reached by the committee of the Fifty-second Congress. A copy of said report is hereto attached and made a part of this report.

Your committee recommend the passage of the bill.

[House Report No. 80, Fifty-second Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 1475) for the relief of Susannah P. Swoope, report:

This claim was presented to the Fifty-first Congress, and a report was made in regard to it by the Committee on War Claims. As the examination by your committee has led them to substantially the same results as those arrived at by the committee of the Fifty-first Congress, they do not think it necessary to recapitulate the facts, but refer to that report and annex a copy for information.

Your committee recommend that the bill referred to them do pass.

[House Report No. 2499, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 10999) for the relief of Susannah P. Swoope, report as follows:

That the Committee on War Claims of the Forty-ninth Congress referred the case to the Court of Claims for a finding of facts under the provisions of the Bowman Act. Said claim has been returned by the said Court of Claims with the following findings of fact, to wit:

[Court of Claims. Congressional case No. 568. Susannah P. Swoope *vs.* The United States.]

FINDINGS OF FACT.

At a Court of Claims held in the city of Washington on the 4th day of June, A. D. 1888, the court filed the following findings of fact, to wit:

The claim or matter in the above-entitled case was transmitted to the court by the Committee on War Claims of the House of Representatives on the 4th day of March, 1886.

J. W. Douglass, esq., appeared for claimant, and the Attorney-General, by F. P. Dewees, esq., his assistant, and under his direction, appeared for the defense and protection of the interests of the United States.

The case having been brought to a hearing on the 28th day of May, 1888, the court, upon the evidence, and after considering the briefs and arguments of counsel on both sides, finds the facts to be as follows:

I.

In the month of December, 1864, William Irvin, of Curwensville, Clearfield County, Pa., was the owner and in the possession of a two-story frame building in said Curwensville, in said county, which before that time had been for many years the dwelling house of the said William Irvin.

At said time the military forces of the United States, under the command of Capt. Kerr, took possession of said house (the same being vacant) as quarters, and occupied the same until some time in the following January, when the house was burned.

At the time of the occupancy of said premises the said forces were engaged in looking after and arresting deserters from the Army of the United States.

Said house consisted of five rooms and a hall below, and two rooms in the second story.

It was in a good state of repair. Attached to said dwelling was a number of out-houses and a barn. The barn was used by the soldiers in stabling their horses. The said house was taken possession of against the protest of said Irvin.

II.

At the time of said fire there were three large wood stoves in said house belonging to said Irvin and ten cords of firewood on said premises belonging to said Irvin. Said stoves were worth at the time of the fire \$30.

The wood was worth \$20. The stoves were destroyed by the fire, and the wood consumed by the soldiers.

The said house was burned on the 29th day of January, 1865. The fire originated late in the night, after the return of a scouting party of the soldiers. The fire originated in the house, but it does not appear from what cause.

The said dwelling house at the time of the fire was reasonably worth the sum of \$3,000.

It does not appear that any payment has been made to said Irvin or to any other person as a compensation for the loss of said property.

The said claimant is a daughter of said Irvin, who died in 1870, leaving a will. The will makes no disposition of the claim against the United States.

All the parties interested as heirs of said Irvin have assigned their interest to the claimant. The said Irvin left several children and they have each assigned to claimant.

BY THE COURT.

Filed June 4, 1888.

A true copy.

Test, this 8th day of June, A. D. 1888.

[SEAL.]

JOHN RANDOLPH,
Asst. Clerk Court of Claims.

PETITION.

[Filed Sept. 20, 1866.—J. R.]

To the honorable the Court of Claims of the United States:

Susannah P. Swoope respectfully prefers her petition, to wit:

(1) That she is a citizen of the United States, and resides at Curwensville, Clearfield County, Pa.

(2) That some time in the month of December, 1864, William Irvin, of Curwensville, Clearfield County, Pa., rented to the United States, for quarters for the soldiers of two companies of the Sixteenth Regiment, V. R. C., a certain large two-story, frame dwelling house, situated on the west branch of the Susquehanna River, in the said county of Clearfield, with some personal property therein, as hereafter specified. That the said Irvin was requested to rent the said property, with two barns and other outbuildings in connection therewith, by the officers in command of the said two companies and the regimental quartermaster of the said command; and, though at first unwilling to rent the property (it being a valuable one) for such purposes, upon the urgent representation of the said officers that his house, from its size and

situation, was the only one obtainable there that was suited to the purpose, and that, otherwise, the troops might be compelled to camp out during the winter, finally agreed to allow the premises to be occupied by the troops, upon the express understanding that the United States was to be responsible for all damages or injury that might happen to the property while in possession of the troops.

(3) That there was in the house at the time the troops took possession four wood stoves and necessary pipes, worth \$72; also one large 9-plate stove, with necessary pipe, worth \$35; also firewood ready for use, and which was used or destroyed, as hereinafter described, worth \$25; also a quantity of lumber on the premises, which was used by the troops to make bunks and stalls, worth \$25.

(4) That on the night of the 28th and 29th of January, 1865, the said dwelling house was totally destroyed by fire, with its contents, and while in the possession of the troops aforesaid; that the said fire and destruction of the house and other property was caused by the carelessness of the occupants aforesaid.

(5) That your petitioner was a daughter of the said William Irvin, who died on the 19th day of December, 1869.

(6) That by a proper conveyance, dated January 14, 1875, all of the heirs of the said William Irvin joined in an assignment of all their interests or rights in the aforesaid claim to your petitioner, and that your petitioner is, and has been since the said assignment, the sole and exclusive owner of the claim herein set forth.

(7) That the said dwelling house, destroyed as aforesaid, was worth at the time of its destruction not less than \$4,500, and that the personal property destroyed with it or used by the troops was worth \$157. And there was also due at the time of the destruction of the property, as a fair rental value for the use of the said premises before the fire, the sum of \$150, thus making a total sum of \$4,807 due to your petitioner under the claim herein set forth and referred for findings by the Committee on War Claims of the House of Representatives.

(8) That neither the said William Irvin nor his heirs nor his legal representatives nor your petitioner have ever received any compensation from the United States or from any insurance on the said property for the destruction of the property, or for the use of the said premises and personal property above described.

Wherefore your petitioner prays a favorable finding and report for the sum of \$4,807.

SUSANNAH P. SWOOPE, *Petitioner.*

J. W. DOUGLASS,
Attorney for Petitioner.

STATE OF MINNESOTA, *County of Hennepin, ss:*

Personally appeared Susannah P. Swoope before me, a notary public in and for the county aforesaid, she being personally known to me, who made oath in due form and according to law that the statements made in the foregoing petition are true, and that no assignment of her claim has ever been made, to the best of her knowledge and belief.

Witness my hand and seal this 15th day of September, 1886.

[L. S.]

A. V. TALBERT,
Notary Public, Hennepin County, Minn.

APPENDIX.

COMMITTEE ON WAR CLAIMS, HOUSE OF REPRESENTATIVES,
Washington, March 4, 1886.

SIR: I have the honor to transmit herewith the claim of Susannah P. Swoope, which I am directed by the Committee on War Claims to transmit to the Court of Claims for an investigation and determination of facts under the provisions of an act entitled "An act to afford assistance and relief to Congress and the Executive Departments in the investigation of claims and demands against the Government," approved March 3, 1883.

I am, sir, very respectfully,

JAMES T. GEDDES, *Clerk to the Committee.*

Hon. WM. A. RICHARDSON,
Chief Justice United States Court of Claims.

Your committee report back the bill and recommend its passage.

CANAL BOATS SWAN AND LEWIS AND BUTLER.

FEBRUARY 11, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MAHON, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 4618.]

The Committee on War Claims, to whom was referred the bill (H. R. 4618) for the relief of the owners or legal representatives of the canal boats *Swan* and *Lewis and Butler*, have had the same under consideration and beg leave to report as follows:

These boats were chartered by the War Department and in its service the early part of the war, under a contract that they should be returned in as good order as when received. While in the actual charge of Government officials the boats were abandoned and destroyed in a violent storm, the Government supplies being saved.

An application for indemnity was made under the provisions of the act of March 3, 1849, and its amendments, but disallowed by accounting officers of the Treasury for technical reasons, which were afterwards reversed. But by reason of the technical reason, that the cases had been before disallowed, under the rulings in force, they have never been reopened.

It is believed that an allowance has been made in all cases of like character, of which there have been many, presented under the provisions of the act above referred to.

This claim was referred to the Court of Claims under the Bowman Act, and disallowed for want of jurisdiction.

The claimants are not asking for a new law in their behalf. The present bill if passed is for the purpose of giving the Court of Claims jurisdiction to determine their rights under laws existing at the time the loss accrued and at the time when their contract with the War Department was made.

Your committee therefore recommend the passage of the bill.



FREDERICK VAN GUILDER.

FEBRUARY 11, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PARKER, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 3046.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 3046) for the relief of Frederick Van Guilder, have had the same under consideration, and respectfully recommend that the bill do pass without amendment.

This is a bill to remove the charge of desertion and to issue an honorable discharge to date July 6, 1863.

The soldier enlisted September, 1862, was mustered November 5, 1862, and served till July 6, 1863, receiving no pay, because his name was not on the muster rolls, which appear to have been mislaid.

After serving though Gettysburg he surrendered to the provost-marshal to ascertain his status, and was discharged as not mustered in, by the Provost-Marshal-General; went home, and afterwards reenlisted and served faithfully, and was honorably discharged from the last service.

His statement in affidavit on the records of the War Department, and in the ingenuous autograph paper, of which a copy is annexed, is confirmed by these records as to the loss of muster rolls, the service, the want of pay, and that it was decided by the Provost-Marshal-General that he had not been mustered in.

The committee are of opinion that he had good warrant to go home and was not a deserter. Desertion is a question of intent. He is entitled to an honorable discharge, as provided in the bill.

Case of Frederick Van Guilder, Company K, One hundred and twenty-third New York Volunteers.

RECORD AND PENSION OFFICE,
War Department, January 28, 1896.

It is shown by the records on file in this office that Fredk. Van Gilder was enrolled on September 5, 1862, and that he was mustered into service as a private of Company K, One hundred and twenty-third New York Volunteers, to serve three years, on November 5, 1862, at Albany, N. Y., by a regularly appointed mustering officer of the United States. He is borne as present with his command on all rolls of his company up to and including that for June 30, 1863. The next roll, that for August 31, 1863, reports him as absent without leave since July 6, 1863, and he is reported as absent on all subsequent rolls, except the muster-out roll of his company, which is dated June 8, 1865. On this roll he is reported as having deserted July 6, 1863.

It does not appear that the soldier received any pay from the time he enlisted until he left the service, and it is evident from the official records and from testi-

mony that has been submitted to this Department that the fact of his having been mustered into service on November 5, 1862, was not communicated to his company officers until after he left his command on July 6, 1863.

On February 20, 1865, he enlisted to serve one year in Company A, Eighth Vermont Infantry, in violation of the twenty-second (now fiftieth) article of war, and was honorably discharged from that regiment on June 28, 1865.

In support of an application for removal of the charge of desertion from the One hundred and twenty-third New York Volunteers, Van Gilder has stated under oath that he served for many months without receiving any pay, that payment was refused him on the ground that the rolls did not show that he had been mustered into service, and that both he and his company officers were unaware that he had been mustered into service. This statement is corroborated to a certain extent by the official records and by the testimony of comrades which is on file in this Department; but, unfortunately, the soldier did not remain with his command until his case could have been adjudicated by the proper authorities, but abandoned the service without proper authority and went home, thereby making it necessary that the charge of desertion should be entered against him upon the records when his company officers discovered that he actually was mustered into the military service on November 5, 1862.

In view of the facts of record in this case, which do not conflict in any important particular with the statements made by the applicant and his witnesses, the War Department is unable to afford any relief under the provisions of the act approved March 2, 1889, which is the only law now in force governing the subject of removal of charges of desertion.

Respectfully submitted.

F. C. AINSWORTH,

Colonel, United States Army, Chief Record and Pension Office.

THE SECRETARY OF WAR.

RECORD AND PENSION OFFICE,

War Department, Washington City, February 3, 1896.

SIR: In returning herewith the copy of the statement by Mr. Fredrick Van Gilder, received by your reference on the 30th ultimo with the request to be furnished with certain information relative to the muster into service of Frederick Van Gilder, late of Company K, One hundred and twenty-third New York Infantry, and with the affidavits on file in this Department in his case, I am directed by the Secretary of War to inform you as follows:

No record has been found showing that shortly after the battle of Gettysburg this soldier reported to a provost-marshal, as alleged.

Upon a reexamination of the records of the provost-marshal at Baltimore, Md., it has been ascertained that under the name Fred Vangilder he was confined in the Gilmore House July 19, 1863, as an arrested deserter, with remark "not mustered in."

The "Letters Received Book," First Division, Twelfth Army Corps, shows that on June 11, 1863, H. O. Wiley, captain One hundred and twenty-third New York Infantry, requested that Private Van Gilder be mustered into the United States service, and that on the following day Captain Wiley's communication was forwarded for information. The records of the Twelfth Army Corps furnish no additional information in the case.

There is no muster and descriptive roll in the case on file in this office, the muster roll of his company dated August 31, 1863, being the basis for the statement that Van Gilder was mustered into service November 5, 1862, at Albany, N. Y.

An exhaustive investigation fails to elicit any further information in regard to the soldier as a member of Company K, One hundred and twenty-third New York Volunteers, additional to that contained in the report on H. R. bill No. 3046, Fifty-first Congress, first session. It appears, however, that on February 20, 1865, he enlisted for one year, in Company A, Eighth Vermont Infantry, and was honorably discharged from that regiment on June 28, 1865.

If he was not in the military service as of Company K, One hundred and twenty-third New York Infantry, he could not, of course, be a deserter therefrom, and would not therefore be entitled to the benefits accruing from military service rendered therein, but whatever informality there may have been in the record of this man's muster into service it is evident that he was, at least constructively, mustered in, and was in the military service as a member of that regiment and a technical deserter therefrom.

Following is a synopsis of the testimony on file in the case:

March 27, 1890, the soldier testified that he enlisted as a private in Company K, One hundred and twenty-third New York Infantry, on or about September 5, 1862, at Granville, N. Y., but was not mustered into service until "about the last

days of September, 1862, at Albany;" that his muster rolls could not be found, and the paymaster refused to pay him "on the grounds that I had not been mustered in," and said that "he could not muster me unless I enlisted over again, which would have caused me to lose all my pay;" that thinking he had served long enough without pay, he left his command, with his captain's consent, after the battle of Gettysburg; that he surrendered to the provost guard, and was taken to the provost-marshal-general at Baltimore, but the latter officer, failing to find his muster-in papers, sent him home; and that not until many years after the war did he (soldier) know that he had been mustered into service.

Cassius G. Waite, aged 43 years, of Granville, N. Y., testified, May 23, 1890, that he was well acquainted with Van Guilder before his enlistment, and served with him in Company K, One hundred and twenty-third New York Infantry; that Van Guilder left the service at the battle of Gettysburg, about July 3, 1863, because his captain (H. O. Wiley) refused to issue him any clothing, and for the further reason that "he was not known on the muster rolls of said company and the Government;" and that "he heard Major-General Williams, division commander of Twelfth Corps, tell claimant not to fight unless the Government paid him, and to go home."

George W. Baker, late captain, Company K, One hundred and twenty-third New York Infantry, testified September 15, 1890, that he was second lieutenant of the company at the date of Van Guilder's enlistment therein; that Van Guilder enlisted November 5, 1862, was mustered into service November 5, 1862, and left the regiment July 10, 1863; that the captain of the company (Henry O. Wiley) wrote several times to the adjutant-general of the State of New York for the mustering papers of the soldier, but was unable to obtain them, and that he was, therefore, "unable to get his pay or to find out whether he was a soldier or not;" and that on July 25, 1863, he (affiant) was detailed on detached service after drafted men in New York, and that on reaching Albany he obtained from the adjutant-general's office the mustering papers of Van Guilder and of two other members of the command, and forwarded them to the regiment.

It is proper to add that a synopsis of the testimony should have been embraced in the report on bill H. R. 3046, Fifty-fourth Congress, first session, but was inadvertently omitted therefrom.

Very respectfully,

F. C. AINSWORTH,

Colonel, United States Army, Chief Record and Pension Office.

HON. R. WAYNE PARKER,

*Chairman Subcommittee B, Committee on Military Affairs,
House of Representatives.*

No. 1.

I have been requested to write a statement about my case I inlisted about the last of September 1862 about three oclock in the after noon in the one hundred and twenty third Nnew York in the town of Granvill Washington. Co: N. Y. and the rigment was in camp in Saylum about twenty miles away I took the train the next morning and I payed my own fair down to Saylum and the rigment had gon and what to do I did not know and then I and two more comrade payed my own fair back agane and reported to the recurting officer and he said that he would recurt some more and send us on with som more in a little while we had to wait about two weeks and then we was sent to Albany and stayed there about three weeks and I must have been mustured in while I was in Albany and then I was sent on to my rigment they was incamp in lodan valley I was with my rigment about three munts when the pay master com around and the capten said to me you cant draw any pay you have not been mustured into U. S. survis yet and you cant draw any pay but you com and sign thee pay rowl and I will try and get it for you and I thought it would be all right so I kepted right on doing survis and after the battle of chancevell the pay master came around again and the captain came around again and says you ant been mustered in the U. S. survis and he had the lutenent take me and the other two boys over to Gen. williams head quarters to be mustered and we went over three different times and the mustering officer said that he could not muster us in without we would inlist over again.

And Gen. Williams said boys dont you fight without uncle Sam pays you and it seemed puty tuff to see the other boys get payed off and we could not get none and a wife and child at home. And it was known all thrugh the rigment that us three boys was not mustered in to United states survis. And we was advised by the other boys and som of the officers to go home. then the captain com to the ordley and said dont you call Fred C. G. and cashus weight nor Irey hall names any more at rowl call and

dont draw any more clothing for them and have them turn their Guns and equipments over to you and shortly after that orders came for us to march to Getes Berg and just before we got to Getesberg one of the boys was sick and I took his aquitment and fell into the ranks and I was in the first days fight at Getesberg and then the captain come to me and the other two boys and say if you should get killed here you would not get nothing for it and your family would not get nothing eather and he sent us back to tack care of his horse and send ther man that was taking care of his horse to the rigment but I did hate to leave the boys but I thought of the love ones at home and I thought I better go back and after the battle was over we started after Gen lee Across the patomic and then I went to the captain and I said cap this Is puty tuff the knees was out of my pants and my toes was thrugh my shoes and I toled hm that I was agoig to give my elf up to the prol of guard and see if I was a soldier or a sitizen and he said he could not help it.

And I and one of the other boys started for Getesberg and was taken up by the prol of gard and taken to Getesberg before the prol marchal and was sent from there to baltimore before the prol marchal general and he said boys what are you here for and we told him that we was not mustered in to united states survis, and uncle sam would pay us we went on and told him how we inlisted and he swore out with a noath what kind of a captan we had but he said that he would telegraph to washington and find out whather we had been mustered in or not and the next day he called us up before him agane he said boys we cant find any mustering roles agants you and he said that the government did not want us to work for nothing and he said that if we would stay and do gard duty he would try and get our pay for us or he would give us a pass for home and he said boys you ant got any money how are you going to get home so he give us a pas for home I worked part of my way through and walked part and got home and that fall our lutenent com home a recruting and I see him a number times and he said to me one day fred i wish you could go back with me I told him that I would like to go back with him but I did not like to go back and go through what I did before now that fall he went back to his rigment and he stoped into Albany and fowned my mustering rowles agansted me and he sent them on to the captain but I did not know any thing about this untill about nine years ago I went back east and went and seen lutenent baker and he told me about finding the mustering rolles and sending them on

And he said that the captain put me down as a deserter but he said that he was was ofle sorry and he said Fred you was one of our best soldiers and any thing I can do for you I will do it for you ought to have your pay for the time that you served this thing the last nine years has wored me to have them think that I was a dezserter for I was honest in the matter but I inlisted agane in the eight V. T. and staid with them untill the wore was over and got my discharge and now I donot get any pention nor pay for the time that I did sirve

respectfully yours

FREDICK VAN GUILDER.



TO PREVENT DISCONTINUANCE OF PENSIONS, ETC.

FEBRUARY 11, 1896.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. PICKLER, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 5549.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5549) to prevent discontinuance of pensions, to restore pensions discontinued, to establish uniform rates of pension, to facilitate the allowance of pensions in matters of proof, and for other purposes, respectfully submit the following report:

The bill adds no new class of pensioners as such to the pension rolls.

Section 1: More than thirty years having elapsed since the close of the war, your committee are of opinion that the soldier who had an honorable service in, and an honorable discharge from, the Union Army should not be refused a pensionable status on account of a prior service in the Confederate Army. The inhibition has long been removed in the cases of those soldiers who incurred disabilities in line of duty, and there are diverse rulings on the subject under the act of June 27, 1890. The distinction between voluntary and involuntary enlistment has been sought to be made, but we think the line of demarcation, as shown by the decisions, is rather finely drawn. A uniform rule should be adopted in the matter, and your committee believe that the comparatively small number of this class who are not already on the pension rolls should be given a like chance with the others.

Section 2: It is sought by section 2 to quiet much of the unrest, anxiety, and perturbation existing in the minds of really deserving pensioners, because of the discontinuances and reductions which have reached every section of the country, and in order to accomplish this result it is provided that no pension shall be discontinued or reduced except for fraud, clerical error, or mistake of fact. This guarantees to the old survivor of our great struggle, whose average age is now 60, that security and peace of mind which should come to him in his declining years. The pension roll has recently been critically inspected, and it is a very reasonable assumption that few persons are now drawing pensions who are not entitled to them.

Section 3 gives to those pensioners whose pensions have been reduced or discontinued since January 7, 1892, the advantages of the provisions of this act on making application for restoration.

Section 4: The most important changes made by this section in the present practice of the Pension Office are in requiring investigations to be conducted by question and answer, and in allowing the party affected by allegations of fraud to be confronted by his accuser in the light of day, as in the ordinary tribunals of justice.

Section 5: The purpose of this section is to abolish the distinction between the oath of a commissioned officer and that of a noncommissioned officer or private. There is little reason in the rule which has grown up in the administration of the pension laws, and your committee believe it is far better to place all credible witnesses upon an equal plane, without regard to rank.

While the proviso allows large latitude to the Bureau of Pensions in the matter of evidence, yet it prescribes that no claim shall be rejected because of claimant's inability to furnish the testimony of more than one credible witness as to any material fact in his case.

Section 6 seeks to simplify the taking of affidavits, and to dispense with the method now in vogue of compelling an affiant, on pain of rejection of his case, to make oath to many things which would be deemed wholly unnecessary in any court or tribunal.

Section 7 is inserted in the bill for the purpose of allowing the claimant to be informed at once exactly what evidence is necessary to complete his case, and the character of that evidence.

Section 8 provides that all papers, memoranda, etc., relating to a pension case shall be kept together in the Pension Office, and that the claimant or his attorney shall be allowed to examine any paper, memorandum, writing, or exhibit in any department, bureau, division, court, or office of the United States which has reference to or bearing upon his claim.

Section 9 enlarges the conditions under which the soldier shall be presumed to have been in line of duty when a disability was incurred, but makes the records of the War and Navy Departments conclusive as to the disabilities therein shown.

Section 10 makes conclusive the former presumption of soundness upon the soldier's first acceptance into the service. It is believed that when the Government examines and accepts a soldier, requiring him to perform all the duties and incur all the dangers of the service, it should be afterwards estopped from denying his soundness at the time of acceptance except where the record discloses the contrary.

This section is also more liberal to the claimant in the matter of proving the time and place of contracting or incurring disabilities.

Section 11 provides that the common-law presumption of death, after the lapse of seven years without news or tidings of the missing person, shall obtain in the administration of the pension laws. This will establish a rule of long standing in the ordinary courts of justice, and lighten to a large extent the labors of this committee.

The proviso will relieve the Government from paying any pension allowed by virtue of this presumption if it is afterwards proved that the person is alive.

Section 12 introduces a new rule in the Pension Office, the common-law rule in the matter of proving marriages on failure of the best evidence. The language of the section closely follows that of existing law as applied to the widows of Indians and colored troops, and is substantially in accordance with the rule for establishing common-law marriages.

Section 13 fixes and makes certain, for pensionable purposes, the termination of the war of the rebellion, and eliminates the confusion incident to holding that the war ended in one State at one time and in another State at an entirely different time. The date is that of President Johnson's proclamation declaring the rebellion suppressed, and as fixed by decision of the Supreme Court of the United States.

Section 14 provides that under the act of June 27, 1890, desertion or dishonorable discharge from a prior service shall not be a bar to pension

if the soldier has a subsequent service of ninety days and an honorable discharge from the same. This is in accordance with former holdings of the Bureau of Pensions. It makes the service as shown by the discharge certificate conclusive.

The section also provides that the death of a soldier while in the service, unless for or in violation of law, shall be held to be equivalent to an honorable discharge.

Section 15 provides that the pensioner or claimant shall not be compelled to file a new claim because he fails in his application to use the proper medical term to designate his disability, and it also operates to reestablish the rule of rating pensions under the act of June 27, 1890, which was in force for about eighteen months after the passage of said act.

Section 16 provides that when a claimant alleges that his disabilities are not the result of vicious habits, this statement will be taken as true until the contrary is shown, and then it must appear from the evidence that the vicious habits are the proximate cause of the disabilities.

Section 17 obviates the delay, trouble, and expense, so far as the claimant is concerned, of filing a new application on the rejection of the old one, and if the pension is finally allowed, it shall date from the time the disabilities are shown by the evidence to have existed. This seems to your committee to be the equitable and just rule.

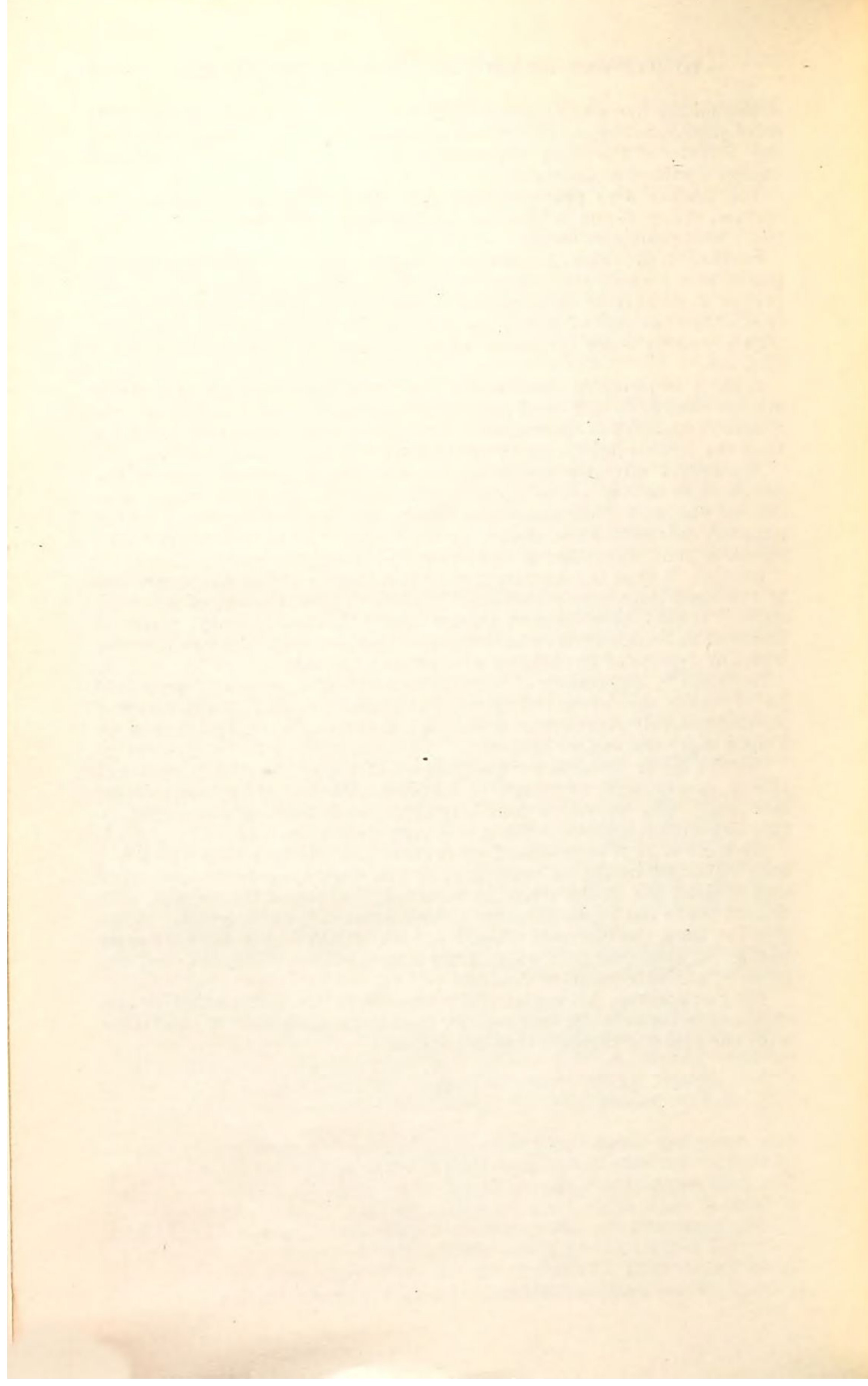
Section 18 fixes the maximum annual income a widow can have, and at the same time have a pensionable status under the act of June 27, 1890. Whilst this amount must necessarily be arbitrary, yet it is believed to be better to establish a sum certain, than to leave it to the whim or caprice of the officers who execute the law.

Section 19: The classes of persons mentioned in section 19 were held to be within the letter and spirit of the act of June 27, 1890, up until a comparatively recent time, and it is the purpose of this section to no longer leave the matter in doubt.

Section 20 is inserted for the purpose of protecting the interests of idiotic, insane, and permanently helpless children of veterans of the late war. The provision has heretofore been favorably reported by this committee, and we think it is a very meritorious one.

By section 21 it is proposed to reverse the ordinary rule which has long obtained in the common law, to wit, that, as between sovereign and subject, the doubt must be resolved in favor of the former. We think that in the administration of the pension laws, especially at the present time, the claimant should not be cut out of his right by some harsh and stringent rule which grew into existence under the despotic reign of a Plantagenet or Tudor.

Your committee, having carefully considered the bill section by section and in its entirety, respectfully report the same back to the House with the recommendation that it do pass.



EXAMINATION AND CLASSIFICATION OF CERTAIN LANDS IN CALIFORNIA.

FEBRUARY 11, 1896.—Committed to the Committee of the Whole House on the state
of the Union and ordered to be printed.

Mr. BOWERS, from the Committee on the Public Lands, submitted the
following

REPORT:

[To accompany H. R. 5819.]

The Committee on the Public Lands has had under consideration the bill (H. R. 4800) entitled "A bill to provide for the examination and classification of certain lands in the State of California," and report the same back with a substitute, and recommend that the substitute do pass, and the bill (H. R. 4800) lie upon the table.

The said substitute for (H. R. 4800) contains substantially the same provisions as the act approved February 26, 1895, for the "classification of mineral lands in the States of Montana and Idaho," within the limits of land grants to railroad companies, with such changes as are made necessary to make the law applicable to California. There are nine land districts in the State of California. This substitute bill provides for the creation of four commissions, each to consist of three persons, to classify the lands in said districts. The statement from the General Land Office shows there are in said State of California within the limits of railroad grants 7,508,022.54 acres of unpatented lands, much of it valuable mineral land; and the early classification of these lands is very desirable.

It is understood, of course, that all lands of mineral character are reserved from patent to railroad companies, but are held for entry and sale as mineral lands. This system of classification has proved most satisfactory in its results in Montana and Idaho, as is shown by the reports of the commissioners of Montana, which is hereto annexed and made part of this report, and in which it is shown that the cost of classification in Montana has been from 1½ cents to 2½ cents per acre, an expense for which the Government will be reimbursed many times over in the sale of mineral lands at the enhanced price.

*Statement of approximate number of acres of unpatented land in limits of railroad
land grants in California.*

Western Pacific Railroad Company, San Jose to Sacramento, Cal.:

Approximate number of acres in grant	1,576,448.00
Number of acres patented to February 6, 1896.....	448,130.65

Approximate number of acres not patented..... 1,128,317.35

Central Pacific Railroad Company, Sacramento, Cal., to Nevada State line:

Approximate number of acres in grant	1, 843, 200. 00
Number of acres patented to February 6, 1896.....	600, 903. 44

Approximate number of acres not patented.....	1, 242, 296. 56
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California and Oregon Railroad Company, Roseville, Cal., to Oregon State line:

Approximate number of acres in grant	1, 945, 600. 00
Number of acres patented to February 6, 1896	1, 856, 401. 91

Approximate number of acres not patented.....	89, 198. 09
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Southern Pacific Railroad Company (main line), San Jose to The Needles, Cal.:

Approximate number of acres in grant.....	3, 558, 400. 00
Number of acres patented to February 6, 1896.....	2, 490, 966. 61

Approximate number of acres not patented.....	1, 067, 433. 39
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Southern Pacific Railroad Company (branch line):

Approximate number of acres in grant.....	4, 441, 216. 00
Number of acres patented to February 6, 1896.....	460, 438. 85

Approximate number of acres not patented.....	3, 980, 777. 15
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RECAPITULATION.

Approximate number of acres not patented:

Western Pacific grant.....	1, 128, 317. 35
Central Pacific grant.....	1, 242, 296. 56
California and Oregon grant.....	89, 198. 09
Southern Pacific (main line).....	1, 067, 433. 39
Southern Pacific (branch line).....	3, 980, 777. 15

Total.....	7, 508, 022. 54
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UNITED STATES LAND OFFICE,
Bozeman, Mont., November 30, 1895.

DEAR SIR: At a conference in Helena last October, between the United States Senators from Montana and the mineral land commissioners for the State of Montana, the inclosed questions were asked by Senator Thomas H. Carter so that the Montana delegation in Congress might have the information necessary to procure an increased appropriation.

At his request I inclose you a list of questions and answers. The estimates are made out to January 1, 1896.

Hoping this will be satisfactory, I am, very respectfully,

ANDREW I. CAMPBELL,
Chairman Mineral Land Commission, Bozeman Land District.

Hon. CHARLES S. HARTMAN,
Bozeman, Mont.

UNITED STATES LAND OFFICE.

Q. Total number of acres of Bozeman district to be classified.—A. 2,450,000 acres.
Q. Number of acres surveyed.—A. 1,340,000 acres.
Q. Area classified this year.—A. 500,000 acres to January 1, 1896.
Q. Actual time employed.—A. Seven and one-half months to January 1, 1896.
Q. Expense per acre.—A. One and one-twentieth cents per acre to January 1, 1896.
Q. Probable time required to classify remainder of surveyed lands —A. Ten months of actual work after January 1, 1896.

Q. Probable time required to complete your work.—A. Two and one-half years of ten months each after January 1, 1896.

Q. Number of months which work can be carried on during the year.—A. Ten months in the year in the Bozeman district.

DEPARTMENT OF THE INTERIOR,
OFFICE BOARD OF MINERAL LAND COMMISSIONERS,
DISTRICT OF HELENA, MONT.,
Helena, Mont., December 5, 1895.

DEAR SIR: Replying to the inquiries addressed to this board at the meeting held September last (it being then understood that the answers to the same should be postponed until the board completed its "field work" for the year, which has only lately been done), I beg to submit the following statement, the same being largely composed of extracts from the General Land Office:

The board upon its full organization early in May, 1895, at once adopted certain unwritten "rules of practice" to fully carry into effect the instructions of the honorable the Secretary of the Interior in the circular of April 13, 1895, and to aid them in making an accurate classification, and thus "render improbable much vexatious and expensive litigation under the fifth and succeeding sections of the act." (Circular of April 13, 1895.)

Under these rules the board gives each month full prior notice (by posting in the United States land office here and through the daily newspapers) as to the lands to be then examined, inviting pertinent and proper information relating to the same, etc. Upon its return to Helena, Mont., from the month's "field work" (for the purpose of preparing the statutory monthly report), a calendar of lands then examined and about to be classified is posted and published in the same manner, and testimony and information in relation to the same is invited, days being named on which such testimony will be received. Thus all have full notice of the territory examined and a full opportunity is given for the protection of all interests involved.

The greater part of such month (May, 1895) was subsequently necessarily occupied by the board in the examination of maps covering the said land grant in this district, the preparation of copies of the official township plats, and the purchase and equipment of the requisite field outfit, including tents, horses, supplies, etc. This, together with the unfamiliarity of the commissioners with the duties imposed upon them by the terms of this new and untried act, the loss of time during September, 1895, when the board was directed to close all matters then in hand prior to the 30th day of such month, should be considered, not only in estimating the amount of the acreage classified during the current year, but also (as it is in this statement) in the succeeding years of the life of this act.

This board has examined and classified during the past year, under the provisions of such act, the following acreage:

	Acres.
Examined and classified in "mineral".....	67, 610
Examined and classified in "nonmineral".....	281, 460
Total acreage examined and classified.....	349, 070

The expense of such examination and classification has been as follows:

Salaries of the three commissioners composing this board (the December, 1895, salaries being estimated to the 23d instant).....	\$5, 990. 00
Expenses (other than salaries), as follows:	
For books of records, copies of township plats, for use in the field work of the board, etc.....	\$106. 55
Rent of office in Helena, Mont.....	144. 00
	250. 55
Expense of publication (as required by statute) of reports of classification of lands, etc. (the expense of publication of the reports filed in November and December, 1895, being estimated).....	1, 891. 00
Total.....	8, 131. 55

Cost of examination and classification per acre, 2.3 cents.

Deducting from the above computation the cost of publishing (which, under any system of the necessary classification of such lands, would be incurred to a greater or less extent, and should not, therefore, be properly chargeable to the operation of this act in estimating the cost of carrying out its provisions, if the same should be a subject of adverse criticism), the time occupied by the board in the preparation

of maps, equipment of an entirely new and requisite field outfit, etc., the cost of the examination and the classification per acre would be so reduced as to fall materially below 2 cents per acre.

The land grant (exclusive of the first and second indemnity lands) to the Northern Pacific Railroad Company in this (Helena, Mont.) land district is as follows (the computation being made from and based upon the official map thereof, dated August 1, 1895):

	Acres.
Surveyed lands	1, 353, 780
Unsurveyed lands.....	2, 056, 180
Total acreage of land grant.....	3, 409, 960
Deducting from the above-mentioned surveyed lands, i. e.....	1, 353, 780
Those lands examined and classified during the current year (supra).....	349, 070

Leaves, of the surveyed lands, to be examined and classified by this board 1, 004, 710
which examination and classification, it is believed, can be completed during the next year (1896), provided such assistants be allowed this board as are hereinafter named.

The unsurveyed lands (2,056,180 acres) can, it is also believed, be examined and classified during the thereafter ensuing two years (1897 and 1898), together with such portions of the first and second indemnity lands, as the said the Northern Pacific Railroad Company shall be entitled to and select under its grant to replace those excepted by reason of prior occupation, etc., or mineral character from its place or original total grant.

The act permitting the classification of the unsurveyed lands to "be made by tracts of such extent and designated by such natural or artificial boundaries to identify them as the commissioners may determine," it is believed that such classification of the unsurveyed lands can proceed much more rapidly than in the case of the surveyed lands, as large tracts of land of known and established character as to its mineral or nonmineral quality can be so classified, such tracts amounting at times to several miles in extent.

From the above estimate, based upon the experience of the past year and believed to be substantially correct, it appears that the work in this district can be accomplished within the time limited therefor, i. e., "within the term of four years from the date of this," (said) "act," provided, however, that reasonable facilities and proper and necessary clerical assistance, and the aid of a small surveying corps to be attached to and placed under the direction of this board, be furnished to aid in the prosecution of such work.

* * * * *

In conclusion, I beg to state that my experience during the past year has proved to me that the act in question, with some slight changes as above generally outlined, is admirable and fully adapted to accomplish the objects of its enactment, and to finally, and, I believe, satisfactorily, with exact justice to all the vast and important interest involved, settle the questions at issue.

It is also proper for me to add that the Hon. Lyman E. Barnes, chairman of the board, is absent and has not, therefore, been able to examine and concur or otherwise in the statements and suggestions herein contained, though they are generally in the line of many conversations with him on the subject.

I have the honor to be, sir, very respectfully,

EDWARD H. MOOWIS,
*Commissioner and Secretary of the United States Board of Mineral Land
Commissioners, Helena, Mont., Land District.*

Hon. CHARLES S. HARTMAN,
House of Representatives, Washington, D. C.

CIRCUIT AND DISTRICT COURTS FOR THE SOUTHERN
DISTRICT OF CALIFORNIA.

FEBRUARY 11, 1896.—Committed to the Committee of the Whole House on the state
of the Union and ordered to be printed.

Mr. BRODERICK, from the Committee on the Judiciary, submitted the
following

REPORT:

[To accompany H. R. 5820.]

The Committee on the Judiciary, to whom was referred House bill
4441, have had the same under consideration and have directed that it
be reported back to the House with the accompanying substitute, and
recommend that the substitute do pass.

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BRIDGE ACROSS LAKE ST. FRANCIS, ARKANSAS.

FEBRUARY 11, 1896.—Referred to the House Calendar and ordered to be printed.

Mr. PATTERSON, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. R. 3962.]

The Committee on Interstate and Foreign Commerce, having considered House bill 3962, recommend that the bill be amended as follows:

In line 15, section 1, insert the words "the said company" before the word "may."

In line 21, section 2, insert the words "from sunset to sunrise" after the word "bridge" and in line 23 of same section strike out the words "when any vessel shall signal to pass."

As amended, the committee recommend that the bill do pass.

OFFICE OF THE CHIEF OF ENGINEERS, UNITED STATES ARMY,
Washington D. C., January 27, 1896.

SIR: I have the honor to return herewith a letter, dated the 22d instant, from the House Committee on Interstate and Foreign Commerce, inclosing for the views of the War Department thereon H. R. 3962, Fifty-fourth Congress, first session, "A bill to authorize the construction of a bridge across Lake Saint Francis, in the State of Arkansas," and, in reply to its reference to this office, I beg to recommend the following amendments to the bill:

In line 15, section 1, before the word "may," insert "the said company."

In line 21 of section 2, after the word "bridge," insert "from sunset to sunrise;" and in line 23 of same section strike out the words "when any vessel shall signal to pass."

A copy of the bill amended as proposed is submitted herewith, and as thus amended I know of no objection to its passage by Congress, so far as the interests of navigation are concerned.

Very respectfully, your obedient servant,

W. P. CRAIGHILL,
Brig. Gen., Chief of Engineers.

Hon. DANIEL S. LAMONT,
Secretary of War.

GRAND LODGE OF MASONS, INDIAN TERRITORY.

FEBRUARY 11, 1896.—Referred to the House Calendar and ordered to be printed.

Mr. RAY, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 5633.]

The Committee on the Judiciary, to whom was referred the bill (H. R. 5633) to incorporate the Most Worshipful Grand Lodge of Ancient Free and Accepted Masons of Indian Territory, submit the following report:

This bill relates wholly to the Indian Territory.

It incorporates this body of Free Masons, and so enables it to own real estate and do business for the promotion of its fraternal and benevolent purposes. It provides that its property shall not be divided among its members, limits the amount of property the corporation may own, and provides that it shall not engage in any business for gain.

The bill follows other acts incorporating these fraternal and benevolent societies in the Territories and in the District of Columbia.

Your committee, having carefully considered same, most respectfully recommend its passage, with the following amendments:

Insert the word "same" before the word "power," in line 1, section 2, and the words "as citizens of the United States" after the words "power aforesaid," the object being to limit the power of the corporation in acquiring real estate, the same as the rights of citizens of the United States are limited in said Territory.

EXTENDING LIMITS OF PORT OF ENTRY OF NEW ORLEANS.

FEBRUARY 11, 1896.—Referred to the House Calendar and ordered to be printed.

Mr. NOONAN, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany S. 1230.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 1230) to extend the limits of the port of entry of New Orleans, beg leave to report as follows:

The present port limits of the port of New Orleans present a geographical absurdity. They include the parish of Orleans, with which the city is coterminous, and a strip of the parish of Jefferson, east bank, 3 miles front on the river, extending back to Lake Ponchartrain. This last-mentioned slice was added in 1888 for the purpose of taking into the port the terminus of the Tazan and Mississippi Valley Railroad. The parish of Orleans lies on both banks of the Mississippi River, but not on immediately opposite banks. For instance, on the east bank the parish fronts about 13 miles on the river; on the west bank it fronts about 23 miles on the river; but only about $4\frac{1}{2}$ miles of these two sides of the parish and port are opposite each other, so that the port stretches out in two long wings, one on the east bank, $8\frac{1}{2}$ miles long, and one on the west bank, $18\frac{1}{2}$ miles long. The wing on the east bank is opposite the parish of Jefferson, west bank, and the wing on the west bank is opposite the parish of St. Bernard. These two portions of these adjacent parishes, while not legally within the port limits, are physically and commercially within the port, and ought to be legally in the port.

The present bill proposes to square up the port, so to speak, and to put both sides of the Mississippi River within the commercial limits of this great center of commerce at the sea end of the Mississippi Valley, within the limits of the port of New Orleans.

The commerce of New Orleans has flowed over and beyond her municipal limits. This has happened several times in her history. More than forty years ago the port limits were extended on the right bank from the then upper limits of the city to the then upper limit of the city of Carrollton. This extension, then made, took into the port limits three additional municipal governments, situated in the parish of Jefferson, those of the city of Jefferson, the city of Lafayette, and the city of Carrollton. In process of time these three cities were absorbed by and were merged into the city of New Orleans and the parish of Orleans. Another extension on the upper right bank was made by special act in 1888, by which the limits were pushed three miles more up the river into the parish of Jefferson.

No extensions of the port have ever been made on the west bank of the river, nor on the east bank below the ancient limits of the city. The overflow of commerce has at last reached these two localities, and hence the bill now reported. It proposes to push the port limits on the east bank, 3 miles below the lower limit of the city, into the parish of St. Bernard, just as the act of 1888 pushed them, on the same bank, 3 miles above into the parish of Jefferson.

It further proposes to push the port limits on the west bank from the upper limit of the parish of Orleans, west bank, to a point opposite the upper limit of the parish of Orleans, east bank.

Within the proposed extension on the lower east bank are situated the slaughterhouses and cattle market of the city of New Orleans and the very extensive terminals of the New Orleans and Western Railroad Company, called Port Chalmette, which has expended large sums in the construction of modern, improved, fireproof warehouses, and compresses for the handling of cotton, of grain elevators, sheds and wharves. This road is organized to build direct to Dallas, Tex., from New Orleans, but it appears that it is so situated and located as to operate as a practical belt road to all the lines of railway entering New Orleans, and that its extensive terminals are available to all these lines, and will largely cheapen the existing port charges on the handling of exports and imports.

Within the proposed extension of the upper west bank are situated the ferry and export and import terminal of the Texas and Pacific Railway Company, the export terminal of the Southern Pacific Railway Company, and the towns of Gretna and Gouldsboro, the site of large cotton oil mills and refineries.

Under the law as it stands now, no ship can land at any of these terminals for any purpose without the special consent of the Secretary of the Treasury, and unless day and night inspectors are detailed at the expense of the ship. No ship can discharge at these places, even with such consent, anything but bulk cargo; such as salt, iron, coal, and similar articles. No package freight of any kind can be landed except within the limits of the port.

It seems absurd almost to deny to two great transcontinental carriers, like the Texas and Pacific railroads, the former of which was chartered by a special act of Congress, and a road that may in time become also a transcontinental carrier, the right to connect with shipping as soon as they reach tide water, but to compel them to ferry every pound of import package freight over the Mississippi River, and also to pay the useless burden of drayage from ship's side to cars before it is ferried; and to compel all ships that connect with them, carrying bulk cargo or going to receive cotton, grain, and other products, to do their business under expensive and delay-producing regulations to which the other commerce of the port is not subjected.

As stated above, all of the commerce that comes to these terminals on both banks of the river is necessarily part of the commerce of the city of New Orleans. It comes consigned to her merchants. It is sold on her exchanges, handled by her labor, loaned upon by her banks, and insured in her insurance companies.

Her growing commerce and that of the Mississippi Valley, of which she is the geographical and natural outlet, demand that no unreasonable restrictions should hamper them, and that they should have the largest limits within which to expand. This bill has the approbation of the Treasury Department. It has passed the Senate without a dissenting voice, and we beg leave to report favorably on it and recommend its passage.

Some local opposition to this bill has arisen in certain circles in the city of New Orleans. Its passage is advocated by the Cotton Exchange, the Maritime Exchange, the Chamber of Commerce and Industry, the Produce Exchange, and large numbers of prominent merchants engaged in the shipping business, and in the exportation of grain, lumber, and cotton. It is opposed by a majority of the city council, the Sugar and Rice Exchange, the Board of Trade, and the Merchants and Lumbermen's Exchange. Large numbers of the individual members of these opposing exchanges have signified by telegrams and memorials their desire to see the bill pass. The press of the city of New Orleans is unanimously in its favor.

Your committee consider, however, that the question of this port extension is a matter of national importance rather than of mere local import. If, as we believe, it will have the effect of cheapening the handling of exports and imports, and of doing away with unnecessary burdens upon the commerce of the Mississippi Valley, passing through the port of New Orleans, not only will that commerce be thereby benefited, but the city of New Orleans herself will be increased in prosperity by the larger volume of that commerce which increased and cheapened facilities will necessarily bring to her doors.



HEIRS OF MATTHEW J. J. CAGLE, DECEASED.

FEBRUARY 11, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WILSON, of Ohio, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 4088.]

The Committee on War Claims, to whom was referred the bill (H. R. 4088) for the relief of the heirs of Matthew J. J. Cagle, deceased, submit the following report:

That this is a claim for services rendered and expenses incurred by Matthew J. J. Cagle as scout and guide for the Army of the United States during the late war. Claim stated at \$1,500.

The claimant was a resident of Dickson County, Tenn., at the breaking out of the late war. Being an outspoken Union man, he was compelled to leave home. He first went to Cairo, Ill., where he reported to General Prentiss, commanding the post, furnishing him valuable information regarding Fort Donelson and other points in Tennessee and Kentucky. Subsequently he was engaged as a scout for the army operating in Tennessee, in which capacity he performed valuable service. Authority was given him to organize the loyal men of his former neighborhood into a company. With these men he cooperated with the Union forces, guiding them through the mountains of the Cumberland River. Still later he was given authority to raise a company of cavalry, and received a commission as captain, which, however, was canceled because the general commanding the Department of the Tennessee did not favor the organization of independent commands at that time. He nevertheless continued in his work of scout and guide during the entire war, and as late as November, 1865, he was employed by the military authorities in arresting offenders against the law in Tennessee.

The evidence filed in support of the bill shows that claimant was employed as a scout and guide by various commands of United States troops from April 25, 1862, to March 9, 1863, and for said services he has not been paid.

Your committee report back the bill and recommend its passage with the following amendment:

At the end of line 7 add the following:

Provided, however, That all sums of money heretofore paid him for said services by the United States Government shall be deducted from said sum of one thousand five hundred dollars.

BERDAN FIREARMS MANUFACTURING COMPANY, ETC.

FEBRUARY 11, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DRAPER, from the Committee on Patents, submitted the following

REPORT:

[To accompany H. R. 1807.]

The Committee on Patents, to whom was referred the bill (H. R. 1807) for the relief of the Berdan Firearms Manufacturing Company and the benefit of Mrs. Mary Kimball Berdan, widow of Gen. Hiram Berdan, respectfully report:

It appears that under orders from the War Department dated January 30, 1866, a board of officers was convened at Washington for the purpose of examining various inventions and types of breech-loading arms, of which General Hancock was president. It appears that the board also issued circulars to owners of improvements on breech-loading firearms containing the form of contract proposed to be executed by such owner with the United States for the use of such improvements as might be adopted by the board. The terms of payment by the United States were arranged upon a sliding scale, a given sum per arm for the privilege of manufacturing 50,000, a smaller sum per arm for the privilege of manufacturing 100,000, a smaller sum per arm for 200,000, and a still smaller sum for any additional number of arms.

The Berdan Firearms Company replied to this circular and made proposals under the above form of contract containing said sliding scale, and submitted certain inventions of Gen. Hiram Berdan, of which it was the owner, for the examination and report of said Hancock board. Said board reported in favor of certain of these inventions, to be applied to altering the Springfield muzzle-loading rifle musket into a breech-loading musket. It appears that the inventions of General Berdan were considered of sufficient value to the Government for the Secretary of War (Gen. J. M. Schofield) to request the Secretary of the Interior, August 12, 1868, to hasten action in the Patent Office upon applications of Berdan for patents on various improvements in firearms, stating that so far as the War Department was concerned the early consideration of the same was regarded as desirable.

No formal written contract was entered into between the Berdan Firearms Company and the United States other than what is hereinbefore referred to. But after the submission of the proposals by the Berdan Company, the United States proceeded to use the inventions of Berdan upon 384,892 muskets, it being understood by the Berdan Company that the Government was operating under the terms of the proposal containing the sliding scale as to rate of payment. The device used by the Government in the manufacture of the 384,892 muskets was secured to Hiram Berdan by letters patent No. 88436.

The Court of Claims found, and the Supreme Court of the United States has affirmed that finding, that the Government saved by the use of the device belonging to Hiram Berdan, by virtue of the afore-said patent, \$481,115, and in addition thereto obtained a better and more efficient arm than could have been made without the appliance invented by Berdan.

On February 29, 1872, and before the Government had ceased to use the invention, a suit was brought in the Court of Claims against the United States. The suit was not prosecuted, no evidence was introduced by plaintiff, and the suit was dismissed. The plaintiff was advised by its solicitors that the action could not be maintained until the Government had made the full number of muskets that it had the right to make under the proposal of 1866, or until the life of the patent expired.

In 1887 a suit was commenced in the Court of Claims and prosecuted to final judgment in the Supreme Court of the United States. It was determined that there was no express contract, and that although the Government had used the invention upon 384,892 muskets, and thereby saved \$481,115 by the use of the Berdan appliance, that the plaintiff was entitled to recover only upon an implied contract arising out of the use, and therefore the statute of limitations would be a bar to all claims arising more than six years prior to the bringing of the suit.

The court found as a fact that—

The extractor-ejector device found upon the Springfield musket, which is covered by the plaintiff's patent No. 88436, is a most efficient, useful, and valuable device, believed by army officers to be the best known in the art for use in a single-fire military arm of the Springfield type. It is far superior to the Allen extractor-ejector device previously in use upon the army musket. The cost of manufacturing the extractor-ejector now in use (since 1868) is \$1.25 per gun less than the cost of manufacturing the Allen device.

During the six years prior to the expiration of the patent and next prior to the bringing of the suit there were manufactured 159,940 muskets. The Supreme Court in its opinion, page 573, vol. 156, quoted from the statements and findings of the Court of Claims as follows:

The cost of manufacturing the extractor-ejector now in use (since 1868) is \$1.25 per gun less than the cost of manufacturing the Allen device. Several witnesses of high military position, expert in the practical use of arms of this description and familiar with the cost of manufacture, have testified to the great value of the extractor-ejector device covered by patent No. 88436, and are of the opinion that a royalty for the use of this device would be a saving in cost over the Allen device, plus a sum varying somewhat with each witness, but of which the average is \$1.41½ per musket, thus giving as royalty the sum of \$2.66½ per musket.

The Court of Claims "finds the ultimate fact that 5 per cent upon the lowest cost of manufacturing the musket during the period covered by this action was a fair and reasonable royalty."

The lowest cost of manufacturing the musket during that time was \$11.88. Royalty per musket 59.4 cents. The plaintiff now has judgment for \$95,004.36 for royalty on 159,940 muskets made within six years next prior to the bringing of the suit.

The removal of the bar of limitations would enable Mrs. Berdan to recover a royalty on 224,952 muskets. The minimum cost per musket being \$11.88, the royalty would amount to \$133,621.49.

The following figures exhibit the result obtained if the bar of limitations is removed.

Whole number of muskets made containing devices covered by patent No. 88436	384,892
Saving compared with Allen gun as found by court.....	\$481,115.00
Judgment for 5 per cent on minimum cost (\$11.88) on 159,940 muskets amounts to	95,004.36

If bar removed, Mrs. Berdan will be entitled to recover payment of 5	
per cent on minimum cost (\$11.88) on 224,952 muskets, amounting to.	\$133,621.49
Which, added to the judgment now held, would amount to.....	228,625.85
Net cash saving to Government after paying the royalty for use of patent.	252,489.15
A saving greater than the royalty by.....	23,863.30

Your committee are of the opinion that the plaintiff company was not in fault or guilty of any laches in not prosecuting the suit first brought that would justify the Government in taking advantage of the statute of limitations.

It acted under the advice of eminent counsel, who, upon the facts stated, had a right to believe that there was a contract based upon the sliding scale before mentioned, and that no suit should be brought until at least the maximum number of the arms mentioned in the proposal had been manufactured containing the patented improvement, or the expiration of the patent.

There is no evidence or reason that leads us to think the plaintiff intended to waive any of its rights or donate the use of the patent to the Government. Nor is there any evidence that the Government expected or desired it to do so. It availed itself of the use of this improvement through the instrumentality of its officers and officials who expected to pay therefor, and promised so to do.

The Government alone has been the gainer by the delay, and the owner of the patent the sufferer.

The Government could have at any time rendered an account and settled for the number of appliances it had then appropriated and used. It never rendered any account; it never suggested to the owner of the patent that it was not proceeding under the sliding scale proposed.

If there was fault, negligence, or laches on the part of either party it was on that of the Government and not the patentee. The last named has made no concealment or admission against its interest, or any intentional waiving of its rights, but on the contrary has done all that it should be required to do under the circumstances of the case.

We think that equitably the Government ought to be estopped from pleading the statute of limitations on the facts in this case, and that equity, justice, and the honor of the nation alike demand the removal of the statute bar to the prosecution of a suit by Mrs. Berdan, and therefore recommend the passage of the bill.

CERTAIN SURVEYS IN THE STATE OF FLORIDA.

FEBRUARY 11, 1896.—Ordered to be printed.

Mr. HOOKER, from the Committee on Rivers and Harbors, submitted the following

REPORT:

[To accompany S. R. 17.]

The Committee on Rivers and Harbors, to whom was referred the joint resolution (S. R. 17) providing for certain surveys in the State of Florida, submit the following report:

This resolution provides for a survey and plans for improvement of the entrance to Biscayne Bay, Florida, which was recommended by the Chief of Engineers in his letter of February 26, 1895, and for a survey and plans for a breakwater at Palm Beach, Fla., in the same vicinity, which is desirable, in order to ascertain what improvements to answer the desired purposes would be best and most economical.

Biscayne Bay is the terminus of the Florida East Coast Railway, recently built, which extends from Jacksonville, Fla., southward along the east coast of Florida, 368 miles. This railroad connects with all points north and west, and will bring New York and Chicago three or four days nearer to the countries lying south of us, other than Cuba, and about ten hours nearer to Cuba.

There has been an iron pier constructed at Palm Beach, and a steamer line to the Bahamas has been put on. The possibilities of development of the commerce of the United States with countries south of us from these improvements are very great. There are no harbors accessible to other than light-draft vessels on the Atlantic Coast from Jacksonville to Key West, and when we consider the large commerce of the United States and other countries passing along this coast, the making of an adequate harbor on the edge of the Gulf Stream where it is greatly needed, which would be an important harbor of refuge and coaling station, and provide a harbor several hundred miles nearer the West Indies and South America than any heretofore existing, and which would be of great importance to the rapid transmission of mails and in aiding American commerce, the desirability of the improvement is apparent.

The committee therefore recommend the passage of the resolution.



IMPROVEMENT OF CONNEAUT HARBOR, OHIO.

FEBRUARY 11, 1896.—Ordered to be printed.

Mr. HOOKER, from the Committee on Rivers and Harbors, submitted the following

R E P O R T :

[To accompany H. Res. 98.]

The Committee on Rivers and Harbors, to which was referred the joint resolution (H. Res. 98) directing the Secretary of War to cause Lieut. Col. Jared A. Smith, Corps of Engineers, to submit plans and estimate for the further improvement of Conneaut Harbor, begs leave to report as follows:

Conneaut Harbor is situated on the south shore of Lake Erie, in the northeastern corner of the State of Ohio. The harbor has become one of a good deal of importance by reason of the building of the Pittsburg, Shenango, and Lake Erie Railroad from Pittsburg through the coal fields of western Pennsylvania to said harbor. Its importance is likely to rapidly develop in the very near future.

In 1892 plans and estimates for the improvement of said harbor were submitted to Congress, showing that the completion of such plans for improvement would cost about \$420,000.

The Fifty-second Congress appropriated about \$40,000 for that purpose, and the Fifty-third Congress appropriated a like sum. These amounts, with the exception of two or three thousand dollars, have been expended toward said improvements. The Engineering Department has become satisfied that the original plan can be modified, so as to greatly benefit the harbor, and at the same time to ultimately save to the Government a good many thousand dollars on the original estimate, but there is no authority to change said original plans unless Congress shall so direct, and this joint resolution is, therefore, to confer power upon the Department to submit new plans and estimates.

The committee reports that it has fully examined into the facts in the case and is satisfied that if authority is granted by the adoption of this joint resolution, it will be greatly to the advantage of the harbor, and will largely reduce the cost to the Government from the original plans and estimates. No further appropriation of money will be needed from the Government to make the survey and estimates, for the reason that there is already on hand, as before shown, an unexpended balance of former appropriations more than sufficient to pay all charges for such survey and estimates.

The committee therefore recommends the adoption of said joint resolution.

ALASKA BOUNDARY SURVEY.

FEBRUARY 12, 1896.—Ordered to be printed.

Mr. CANNON, from the Committee on Appropriations, submitted the following

REPORT:

[To accompany S. R. 39.]

The Committee on Appropriations, to whom was referred the joint resolution (S. R. 39), making an appropriation of \$75,000 to defray the joint expense of locating the boundary line between the Territory of Alaska and the British North American territory, having considered the same, report it back herewith and recommend its passage without amendment.



ELIZABETH MARSHALL.

FEBRUARY 12, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. THOMAS, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 1109.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1109) granting a pension to Elizabeth Marshall, having carefully considered the same, respectfully report:

Elizabeth Marshall claims as the widow of Henry L. Marshall, who enlisted September 2, 1861, in Company K, Fifty-fifth Pennsylvania Volunteer Infantry, and was discharged for disability December 24, 1862. On March 10, 1864, he enlisted in Company A, One hundred and eighty-fourth Pennsylvania Volunteer Infantry, and died October 23, 1864, at Andersonville, Ga., of scorbutus.

On June 21, 1865, the claimant filed application as widow of the soldier, and on November 16, 1865, Margaret Ann Marshall filed application, claiming as widow also. An investigation was made into the merits of the two claims, and in 1869 Elizabeth's was allowed at \$12, to date from the soldier's death. This she continued to draw until 1884.

In 1884 Margaret renewed her claim, and Elizabeth was notified that if she did not produce within sixty days some additional evidence as to the legality of her marriage her name would be dropped from the rolls. At the time the pensioner was sick in Illinois and could do nothing. Her name was accordingly dropped, and the pension granted to Margaret.

It appears that in 1852 Marshall and others were at a dance given by someone in the town in which he lived, and a mock marriage was proposed. Marshall and Margaret were willing to participate in the ceremony, and did so, but all parties were drunk, including the justice of the peace who officiated.

In 1858 the soldier married Elizabeth in due form, had four children by her, always recognized her as his wife, lived with her when at home, and sent her his pay while in the service. During all this time the parties resided in the same little town of 300 or 400 inhabitants.

Margaret died in 1889, and no pension is now being paid on account of the death of the soldier. Elizabeth is more than 60 years of age, and in destitute circumstances.

Your committee are of opinion, in view of all the facts, that Elizabeth is the legal widow of the soldier, and more especially so as the question was investigated within a short time after the transactions occurred and thus decided, and remained *res judicata* for fifteen years.

We therefore respectfully recommend the passage of the bill.

ELIZABETH MOORE ENGLISH.

FEBRUARY 12, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MILES, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany S. 1271.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 1271) granting a pension to Elizabeth Moore English, adopt the accompanying Senate report (No. 20) as their own, and respectfully recommend its passage.

[Senate Report No. 20, Fifty-fourth Congress, first session.]

The Committee on Pensions, to whom was referred the bill (S. 1271) granting a pension to Elizabeth Moore English, have examined the same and report:

During the third session of the Fifty-third Congress both Houses of Congress passed a bill in behalf of this claimant, but which went to the Executive at so late a day in the session as not to receive consideration. The history of the bill is as follows:

The House Committee on Invalid Pensions reported the bill at \$50 per month, but when passed it was reduced to \$30. The Senate Committee on Pensions recognized the fact that the claimant was justly entitled to a higher rate, but in consequence of the near approach of the close of the Fifty-third Congress, adopted the House report and passed the bill, which, as before stated, did not reach the President in time to receive his signature.

The present bill proposes to pension the claimant at the rate of \$50 per month. Mrs. English's petition for relief by special act of Congress is as follows:

To the Honorable Senate and House of Representatives of the United States:

The petition of Elizabeth Moore English respectfully represents—

First. That she is the widow of Earl English, late a rear-admiral in the United States Navy, who departed this life on the 16th of July, 1893, in the city of Washington, being at the time of his death on the retired list of the Navy.

Second. That the said Earl English entered the Navy as midshipman the 25th of February, 1840, and passed through all the grades to that of rear-admiral, the highest rank in the Navy under existing laws, and was retired on the 18th of February, 1886.

Third. That the said decedent served with distinction through three wars and the exposures and hardships of forty-six years on the active list, more than twenty-seven of which were spent at sea, twelve years having been passed in the East Indies, where he was severely wounded in an engagement at the barrier forts in the Chinese war. Never wavering in his allegiance to the United States throughout his long career, he was distinguished by his services, characterized by wisdom and bravery.

Fourth. That your petitioner's husband died leaving her little property, and that she is in embarrassed circumstances and without adequate means of support. Your petitioner therefore prays that your honorable body will pass an act for her relief, granting to her, as the widow of the late Earl English, a pension of \$100 per month.

The following is the report made in this case:

Mrs. English is the widow of Earl English, late rear-admiral, United States Navy, whose record is as follows:

Earl English, rear-admiral, United States Navy. Born in Crosswicks, Burlington County, N. J., February 18, 1824.

Appointed midshipman from his native State February 25, 1840.

Was attached to the line-of-battle ship *Columbus* until December of same year; was then ordered to the frigate *Constellation*, and made the cruise in her to the East Indies and around the world, arriving home May 8, 1844. Was attached to the

Princeton, on gun practice, 1844 and 1845. Was then ordered to the Naval Academy, where he graduated July, 1846. Was then ordered to the Frigate *Independence*, and actively employed on the Pacific station, coast of Mexico and California, and participated in the capture of Mazatlan, and in other important naval operations on the coast and in California. After the Mexican war he made a year's cruise in the *Vixen* to the West Indies. He then joined the *Southampton* for two years on special service in the Pacific and California. Returning, he joined the *Dolphin* in April, 1853, on deep-sea soundings between the United States and England.

While on this duty, in the month of July, 1853, he was successful in bringing up the first soundings from the bottom of the ocean at the depth of 2,500 fathoms, the result of which was the laying of the first ocean cable between England and America in 1855. Having finished that duty he joined the Coast Survey, and was attached to the schooners *Crawford* and *Varina* for two years. He was then attached to the *Levant* and joined the East India squadron, and in November, 1856, in the capture and reduction of the barrier forts in the Canton River, he was seriously wounded. Returning from that cruise, he joined the *Wyoming* and went to the Pacific station, where he remained until the breaking out of the rebellion, when he returned East and took an active part until the close of the war, commanding the *Somerset* and *Sagamore* in the East Gulf squadron, capturing a large number of blockade runners, Cedar Keys, St. Marks, as well as destroying large numbers of salt manufactories on the coast.

Health failing him, he returned North for a short time. May, 1864, he took command of the *Wyalusing* in the sounds of North Carolina, where he remained until the suppression of the rebellion. While in the sounds he assisted in the capture of the city of Plymouth and the rebel ram *Albemarle*, and in numerous engagements up the Roanoke River and in various places in the sounds. The war ending, he was ordered to the navy-yard, New York, on ordnance duty, until, in November, 1866, he took command of the *Iroquois* and once more joined the East India station; was in Japan during the revolution in that country, and when the Tycoon was defeated by Satsuma at Osaka he and his official followers fled and took refuge on board of the *Iroquois*, for which kindness he received the thanks of the Tycoon. He returned home in November, 1870, and for three years was on special service with Admiral Porter and at navy-yard, Portsmouth, N. H. March, 1874, he took command of the *Congress* and joined the European station, and in the absence of Admiral Worden the duty of settling a difficulty between the Pasha of Tripoli and the United States consul devolved upon him.

The Government was so well satisfied with the result, that General Grant, then President of the United States, thanked him in person. Returning home in 1876, he was ordered as senior naval officer afloat at the Centennial, Philadelphia, where his sailors and marines were given a post of honor in the grand procession on the day of the opening.

July 31, 1876, was ordered as commandant of the Portsmouth (N. H.) Naval Station, where he remained until November, 1878, when he was appointed chief of the Bureau of Equipment and Recruiting, Navy Department. While in the Bureau he had a law passed authorizing the enlistment of 750 naval apprentices. At the same time Coasters Harbor Island, at Newport, R. I., was ceded by the State to the National Government as the headquarters for the training station, where it remains at the present time in a most flourishing condition.

He was instrumental in having President Arthur sign the order increasing the pay of the enlisted men and boys in the Navy. September 4, 1884, he resigned from the Bureau and took command of the European station. Returning home, he retired, according to law, February 25, 1886.

Promotions.—July 11, 1846, passed midshipman; March 1, 1855, master; September 16, 1855, lieutenant-commander; July 25, 1866, commander; September 28, 1872, captain; March 25, 1880, commodore; September 4, 1884, rear-admiral.

Admiral English died July 16, 1893, and his widow filed an application for pension December 19, 1893, but the same was disallowed April 26, 1894, on the ground that the disease from which he died (acute enteritis) could not clearly be traced to diseases originating in line of duty during his active service. It is believed, however, that a liberal view of the testimony would have justified the medical authorities of the Pension Office in allowing the claim, as the hospital records show that the officer was frequently under treatment during his active service for diseases similar in character to the one which caused his death. The physician (a naval surgeon) who treated Admiral English during his final illness gave it as his opinion that the officer's "long and arduous service brought a train of infirmities which gradually sapped vitality" and assisted in bringing about a fatal termination to his illness.

After a careful and thorough examination of all the facts in the case, and in view of the long and valuable services of Rear-Admiral English, your committee is of opinion that the relief asked for should be granted, and therefore report the bill back with a recommendation that it pass.

THOMAS CORIGAN.

FEBRUARY 12, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BAKER, of Kansas, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 1838.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1838) granting an increase of pension to Thomas Corigan, respectfully report as follows:

Your committee have carefully examined into the facts in this case, and find that the soldier served in Company B, Eighty-eighth Illinois Volunteer Infantry, from July 25, 1862, until he was discharged on account of disability.

At the battle of Chickamanga, September 20, 1863, he was severely wounded in the left hand, and is now drawing a pension of \$30 per month for that injury, the arm being rendered wholly useless by the wound. At the same time he was wounded by a buckshot in the neck, and the soldier claims that this wound has affected his spine and has produced epilepsy.

The medical evidence shows that the wound in the neck produces distinct crepitus on movement of the neck. The epileptic fits have gradually increased until the soldier is totally helpless and requires constant aid and attendance and has become almost imbecile mentally.

The Pension Bureau in 1892 held that it can not accept the "fits" as a result of the wound in the back of the neck, but no other cause is evident, and medical evidence has been furnished to show that the wound in the neck is the cause of his present condition.

The soldier's condition is helpless in the extreme, and if the wound in the neck is the cause of his injury he would be entitled to \$72 per month under the general law. We are not disposed to criticise the action of the Pension Bureau in rejecting this portion of the soldier's claim, but we think that it might have very fairly decided the other way under the evidence and examination of the medical boards.

Your committee think that the soldier should be given the benefit of the doubt to the extent of being raised to the second grade, or \$50 a month. The committee is adverse to reporting bills changing the rate of pension as fixed by the Pension Bureau, but in case of extreme helplessness like the present, where the wound has been followed by such helplessness, and there is much evidence to show that the soldier's condition is due to his wound, we are inclined to relax the rule.

If this case were before us as an original question we would probably have come to a different conclusion from that arrived at by the Pension Bureau, but in the doubt raised in the case we think that the second grade would relieve the wants of the soldier and ought to be granted, especially as the claimant was an excellent soldier, highly commended by Gen. F. T. Sherman, and his severe wounds received in the battle of Chickamauga are clearly shown.

A bill granting the same amount of pension passed both Houses of the last Congress, but failed of action by the President.

Your committee recommend that the bill do pass.

JOSEPH W. FISHER.

FEBRUARY 12, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ANDREWS, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany S. 640.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 640) to increase the pension of Joseph W. Fisher, having carefully considered the same, adopt the accompanying Senate report (No. 62) as their own, and respectfully recommend its passage.

[Senate Report No. 62, Fifty-fourth Congress, first session.]

The Committee on Pensions, to whom was referred the bill (S. 640) granting a pension to Joseph W. Fisher, have examined the same, and report:

A similar bill was introduced in the Fifty-third Congress, referred to the Committee on Pensions, examined, reported favorably, and passed the Senate.

The facts are as follows:

The object of the bill is to increase the pension of Gen. Joseph W. Fisher, late colonel of the One hundred and ninety-fifth Regiment of Pennsylvania Volunteers, from \$30 per month to \$72 per month.

General Fisher, at the breaking out of the civil war entered the service as a lieutenant-colonel of the Fifth Pennsylvania Reserves, and in July, 1862, he was promoted to the colonelcy of the regiment. He served as such for a full term of three years, the time of enlistment. Being mustered out, he raised the One hundred and ninety-fifth Regiment Pennsylvania Volunteers, and at the expiration of their term of enlistment he again raised a regiment known as the One hundred and ninety-fifth Regiment Pennsylvania Volunteers. He continued in the service until January 31, 1866, when he was finally mustered out.

He was engaged in all the battles in which his regiments participated, frequently received the compliments of his superior officers, was recommended for the position of brigadier-general, and was appointed brigadier-general by brevet in 1865. He performed conspicuous service at the famous Little Round Top at the battle of Gettysburg.

At the time General Fisher first enlisted he was past the military age, but he served during the entire war and came out of the war broken down in health, and has suffered from the exposures and hardships of the war ever since. He has had four different strokes of paralysis; he is 80 years old and is well-nigh helpless. He is by profession a lawyer. He held the office of associate justice and the office of chief justice of the supreme court of the Territory of Wyoming for a number of years. He has no means of support, and is totally disabled for mental and physical work.

A petition signed by several hundred representative citizens of his town (which is hereto annexed with the omission of the signatures) gives a statement of his condition mentally and physically, while the affidavits of two representative physicians, who are members of the pension board of examiners (hereto annexed and made a part of this report), confirm the statements contained in the petition.

The committee recommend that the bill be amended by striking out, in line 7 of the bill, the words "one hundred" and inserting in lieu thereof the words "seventy-two," as this will grant to General Fisher a pension equivalent to that provided for privates in the volunteer service who are totally disabled.

To the Honorable the Members of the Senate and House of Representatives of the Congress of the United States:

GENTLEMEN: We, the undersigned, citizens of the United States, do hereby most respectfully petition your honorable body to grant a pension to Gen. Joseph W. Fisher, formerly of the State of Pennsylvania, and for twenty-three years last past a resident of Wyoming.

General Fisher's military record, which is part of the history of the late civil war, is, briefly, as follows: He entered the service in May, 1861, as lieutenant-colonel of the Fifth Pennsylvania Reserves; in July, 1862, he was promoted to the colonelcy of the regiment; he served as such for the full three years' time of enlistment. When he was mustered out he raised the One hundred and ninety-fifth Regiment Pennsylvania Volunteers for one hundred days' service, being colonel of the regiment, and at the expiration of that term again raised a new regiment known as the One hundred and ninety-fifth Regiment Pennsylvania Volunteers, of which he was colonel, and continued in service until January 31, 1866, when he was finally mustered out of service.

During all his term of service General Fisher was engaged in all the battles in which his various regiments participated and was frequently complimented in orders by his superior officers, all of whom recommended him for promotion to a brigadier-generalship, and he was appointed brigadier-general by brevet in November, 1865. His chief achievement as an officer was the taking and holding of Little Round Top, at the battle of Gettysburg, at a critical juncture in that battle, which fact was well known throughout the Army.

At the time he was finally mustered out of service he was suffering from disability caused by exposure and hardship in war and has ever since been in feeble health in consequence. He has sustained four strokes of paralysis and is now suffering from the effects of the last, being unable to speak fluently and being extremely weak. He is 80 years of age, and has been for about four years last past and is now absolutely unable to follow his profession as a lawyer (he was chief justice of Wyoming from 1871 to 1879), and will never recover sufficiently to engage in any business or employment. That he is without means of support. Your petitioners, therefore, pray that a reasonable pension be granted General Fisher, believing that no more worthy case has appealed to the sense of justice of your honorable body.

(Here follow nearly three hundred signatures.)

STATE OF WYOMING, *County of Laramie, ss:*

CHEYENNE, WYO., *April 13, 1894.*

To whom it may concern:

This is to certify that I was called to attend, professionally, Hon. J. W. Fisher, of this city, on December 2, 1890, he being the subject of apoplexy, with right hemiplegia, labial paralysis, and amnesia aphasia. My attendance continued daily until the 18th of December, 1890, and occasional visits for a variable period; the dates of the visits have not been kept. At no time since the attack of December, 1890, has he been in a condition, either mental or physical, to attend to any kind of business, and, owing to his advanced age, never will be able to earn a livelihood in any manner. While in certain respects he has improved slightly, yet it is not of a character to hope for improvement, as the attack may recur at any moment and place him in a more deplorable state than he has yet been in.

ROBERT B. GRIMES, M. D.,
Late A. A. Surgeon, U. S. A.

Subscribed and sworn to before me this the 14th day of April, A. D. 1894.

W. P. CARROLL, *Justice of the Peace.*

To whom it may concern:

This is to certify that I have attended Joseph W. Fisher professionally at various times within the past year, and that I find his physical condition to be such as to totally disable him from manual labor of any sort whatever. He has "amnemonie aphasia," resulting from senile degeneration, which unfits him from all business pursuits where memory, a normal coordination in thought, and a concise manner of expression are required.

His condition during a greater portion of the past six months has been such as to require the services of an attendant to supply his wants, having been afflicted with

a catarrhal inflammation of the ears, which resulted in the perforation of the drums of both ears and an almost entire loss of hearing of the right one.

Taking into consideration his age and his present condition of general senile degeneration, it is quite probable that he will require the care of an attendant most, if not all, of the time of the remaining period of his life.

GEO. P. JOHNSTON, M. D.,

Secretary Board United States Examining Surgeons, Cheyenne, Wyo.

APRIL 7, 1894.

THE STATE OF WYOMING, *County of Laramie, ss:*

George P. Johnston, being first duly sworn, deposes and says that the facts contained in the foregoing statement are true.

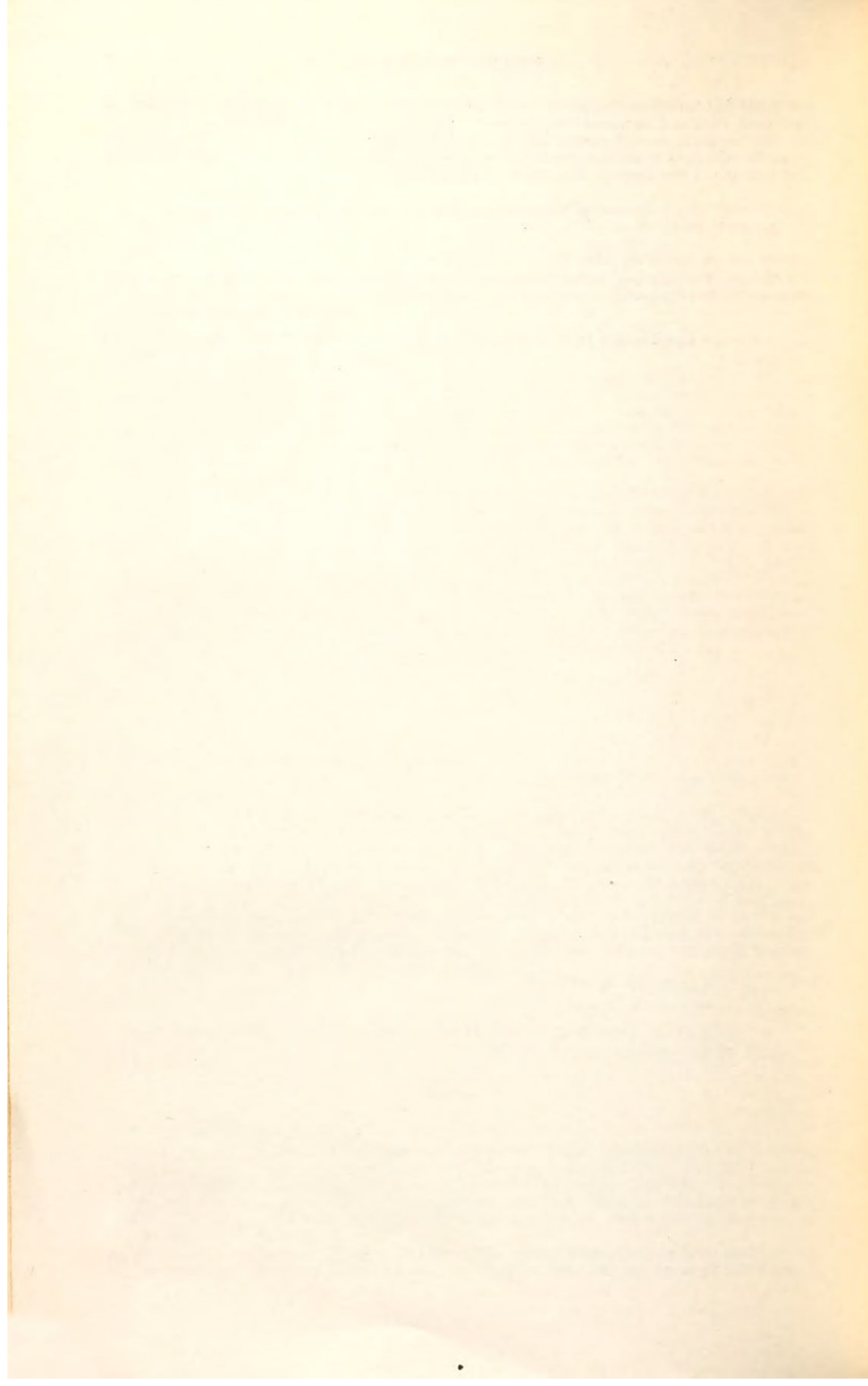
GEO. P. JOHNSTON, M. D.

Subscribed and sworn to before me this 11th day of April, A. D. 1894.

[SEAL.]

LOUISE S. SMITH, *Notary Public.*





AGNES A. BLACKMAN.

FEBRUARY 12, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. KERR, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 2151.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2151) granting a pension to Agnes A. Blackman, having carefully considered the same, respectfully submit the following report:

This bill grants a pension of \$8 a month to Agnes A. Blackman, as widow of George C. Blackman, a brigade surgeon in the war of the rebellion.

This woman applied for pension under the old law, and pending the determination of that claim she applied under and was granted a pension of \$8 per month under the law of 1890.

After this she presented her claim under the old law, and in that investigation the question as to the validity of her marriage to Dr. Blackman arose.

Dr. Blackman had been married and divorced in Kentucky prior to his marriage to this woman. This divorce was a limited one, and the question was whether under it this subsequent marriage was legal.

Before entering into this second marriage Dr. Blackman took the advice of eminent counsel, and he was advised that he was perfectly free to marry again, and that the marriage would be valid.

While the matter was pending in the Pension Office an autograph opinion of Justice Stanley Matthews and ex-Attorney-General Alphonso Taft was filed, in which opinion they declared that the second marriage was valid. Notwithstanding these opinions the law clerk of the Pension Bureau decided against the validity of the marriage and her claim was rejected, and her pension under the law of 1890 stopped.

The law question appears in the following facts. Prior to 1853 the law of Kentucky relative to divorce was as follows:

CHAP. 47, ARTICLE 3, SEC. 2. No decree of divorce shall authorize or permit the party obtaining the same to marry again until one year after the final decree except when it is herein allowed in favor of both parties, etc.

SEC. 8. A divorce from bed and board shall operate, as to property thereafter acquired, and upon the personal rights and legal capacities of the parties, as a divorce from the bonds of matrimony, except that neither shall marry again during the life of the other and except, etc.

An act approved March 10, 1854, repealed the provisions limiting the right to remarry and is as follows:

AN ACT to amend the third article of the Revised Statutes, entitled "Divorce and alimony."

Be it enacted, etc., That a party obtaining a divorce may marry again at any time after the final decree was rendered, may marry again at any time after one year from said decree.

The law clerk held that this did not reach the case of persons divorced from bed and board for the reason that it could not be presumed that the legislature intended to make a divorce from bed and board the equivalent of one from the bonds of matrimony. There was not much question but that the words of this amendatory act were ample to cover the Blackman case, but the words were limited by the law clerk's construction by what he assumed was the intention of the legislature.

The weight of authority seems to be with Justice Matthews and Judge Taft and against the law clerk; so your committee recommend the passage of the bill.

O

EBENEZER G. HOWELL.

FEBRUARY 12, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. POOLE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 5254.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5254) to pension Ebenezer G. Howell, after duly considering the same, respectfully report:

Ebenezer G. Howell enlisted in the war September 5, 1862, as a private in Company F, One hundred and sixtieth New York Infantry, and was discharged as sergeant April 25, 1864. He reenlisted April 26, 1864, as second lieutenant Company K, Seventy-third United States Colored Troops, and was discharged January 29, 1866, having served faithfully three years and four months. November 3, 1879, he applied for pension for bayonet wound of right hand injuring little finger, and was pensioned April 10, 1883, to date from April 30, 1866, at \$7.50 per month, "for incised wound of right hand affecting little finger." This was increased May 12, 1890, to \$11.50 per month, to date from April 30, 1866.

The evidence in this case shows that Ebenezer G. Howell was, on the 6th day of March, 1888, badly injured in a railroad accident near Hobart, in Indiana. The train upon which he was riding was standing upon the track over a high trestle, and was run into by another train from the rear. The engine of the other train telescoped the car in which he was riding, filling the wrecked car with steam. He attempted to escape from the car, which is known as the caboose, and tried to get upon the top of the car and save himself from being scalded to death. He got hold of the ladder leading to the top of the car, but by reason of the injury of his right hand from the bayonet wound he received in the Army was unable to hold himself, and consequently fell a distance of 27 feet, breaking his right arm near the shoulder and also between the elbow and wrist; also injuring his spine and left side to such an extent that he has been partially paralyzed ever since.

The testimony shows clearly that from that time he has been unable to dress or feed himself without assistance and is unable to do any kind of labor. The records of the Pension Office show that Howell made claim for an increase of his pension January 14, 1893, as follows:

Alleges "pensionable disabilities and an injury received in a railroad accident March 6, 1888, in consequence of not being able to hold to the iron on side of the car by reason of said pensioned disability of right hand, said injury on railroad resulting in total physical and partial mental disability, and being sequence of said pensioned disability."

He was examined by the board of examining surgeons at Auburn, N. Y., September 6, 1893, and as a result of that examination, which was made with great detail, they concluded: "As a result of these injuries he is totally and permanently incapacitated for the performing of manual labor."

The increase claim was rejected January 24, 1895, on ground of "no special results." He again made claim for increase July 11, 1895, was examined by same board of surgeons, and was again rejected, on the ground, "Condition of hand, injury due to accident since discharge."

A large number of affidavits have been examined by the committee above referred to, made by residents of Cortland, N. Y., who have known this man before, during, and since the war, and all show him to be a man of pure life and highest character, and that he is now and has been since the railroad accident entirely incapacitated for labor, and that to a great degree his right hand was useless since his recovery from the bayonet wound received in battle at Fort Blakley, Ala., and that he is now 64 years old and is entirely without means of support.

While the soldier is not pensionable under the the present pension laws, it is manifestly clear from the facts and circumstances in evidence that his claim is a very meritorious one and that the disabilities incurred in the railroad accident were unavoidably received because of his inability to save himself from being completely cooked to death by steam on account of the injured hand for which he is pensioned. It is therefore such a case as should receive the benefits of direct legislation by Congress, and a pension of \$30 per month is recommended by this committee.



CAROLINE A. HOUGH.

FEBRUARY 12, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WOOD, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 2604.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2604) to increase the pension of Caroline A. Hough, widow of Brig. Gen. John Hough, submit the following report:

The committee have carefully examined the evidence in support of the above bill and find that John Hough enlisted as a private in May, 1861, in Seventeenth Illinois Volunteers. He was wounded in battle in 1861 which compelled his discharge, but in 1862 he reenlisted and was made adjutant of the Seventy-seventh Illinois Volunteers, and was successively promoted to assistant adjutant-general of volunteers with rank of captain, and then major. He was chief of staff of Gen. A. J. Smith, and was breveted as colonel and brigadier-general for meritorious service in the field. He was a participant in nineteen battles. His record is a most honorable one, receiving the commendation of General Smith and General Grant. He remained in the service during the whole war except a short period above mentioned, when he was disabled by wounds and rheumatism.

He was pensioned for gunshot wound of left foot, with loss of great toe, also for rheumatism and resulting disease of the heart, and drew until his death \$17. His widow has drawn the same pension since his death.

There is no question but that these wounds and diseases were of service origin.

The evidence shows conclusively that the widow, Caroline A. Hough, has no income, property, or means except her pension of \$17 per month, which is insufficient for her support, she being in the sixtieth year of her age and in feeble health.

The committee recommend that the bill be amended by striking out the word "fifty" in seventh line and inserting in lieu thereof the word "thirty," and that the bill as thus amended do pass.

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JAMES H. JONES.

FEBRUARY 13, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MOSES, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 4122.]

The Committee on Pensions, to whom was referred the bill (H. R. 4122) granting an increase of pension to James H. Jones, have considered the same, and report:

The claimant served from May 9, 1836, to September 2, 1836, as a private in Captain Urquhart's company of Georgia volunteers in the Florida Indian war, and he is now receiving, under certificate 1470, the pension of \$8 per month allowed by the Indian war act of July 27, 1892.

Mr. Jones is now about 83 years of age, in a helpless condition physically, and wholly dependent upon his small pension for support. He and his aged wife are both almost totally deaf, and they have an invalid daughter, who is dependent upon them for maintenance.

In view of the above facts, your committee recommend the passage of the bill.



EUGENIA R. SWEENY.

FEBRUARY 13, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HOWE, from the Committee on Pensions, submitted the following
REPORT:

[To accompany H. R. 3426.]

The Committee on Pensions, to whom was referred the bill (H. R. 3426) to increase the pension of Eugenia R. Sweeny, beg leave to submit the following report:

Previous to the third session of the Fifty-third Congress the claimant had been in the receipt of a Mexican war pension of \$8 per month, when, at the suggestion of her friends, she petitioned Congress, through the Senate of the United States, to grant her a pension of at least \$50 per month, which was referred to the Senate Committee on Pensions (the chairman of which was Senator John M. Palmer, who well knew her husband, General Sweeny, both in the Mexican war and the war of the rebellion), who unanimously declared that—

The long and faithful service of the soldier, the wounds that he received in two wars, which finally compelled his retirement from the service, and the poor health and poverty of the widow make the case one of unusual merit, and we therefore recommend that the bill do pass.

In pursuance thereof said report was adopted by the Senate and, reaching the House committee for action in almost the last hours of the session for consideration by the committee as well as the House of the Fifty-third Congress, a modification by the committee was made reducing the sum from \$50 to \$30, and for fear that all might be lost by the failure in conference for the want of time for consideration, should it go to conference, the friends of the bill decided to accept the reduction, and stated that they would renew the application for the \$50 per month at the present Congress in view of the meritorious character of the general's services and the necessities of his widow; and therefore your committee recommend the passage of the bill (H. R. 3426) and at the same time beg leave to append Senate Report No. 802 to their report, and adopt the same as a part thereof.

[Senate Report No. 802, Fifty-third Congress, third session.]

The Committee on Pensions, to whom was referred the bill (S. 2511) granting an increase of pension to Eugenia R. Sweeny, have examined the same and report:

The claimant under this bill is the widow of Brig. Gen. Thomas W. Sweeny, late of the Army of the United States, who died at Astoria, N. Y., April 10, 1892. The widow is now in receipt of a Mexican war pension of \$8 per month.

The records show that General Sweeny entered the service as a second lieutenant December 23, 1846, and continued in practically constant service until May 11, 1870, when he was mustered out in consequence of wounds received in the Mexican war and the war of the rebellion. Special Orders, No. 190, reads as follows:

SPECIAL ORDERS, }
No. 190. }

HEADQUARTERS OF THE ARMY,
ADJUTANT-GENERAL'S OFFICE,
Washington, May 11, 1870.

A board of examination having found Maj. Thomas W. Sweeny, United States Army, unassigned, incapacitated for active service, and that said incapacity is due

primarily to a wound received in the battle of Churubusco, Mexico, while a second lieutenant in the First New York Volunteer Infantry, on the 20th of August, 1847, which occasioned the amputation of his right arm at the middle third; and, secondly, to a gunshot wound received in the right leg at the battle of Wilson Creek, Missouri, August 10, 1861, while acting as inspector-general to Brigadier-General Lyon, and at which time he (Major Sweeny) was a brigadier-general of the Three Months Volunteers, under an election of the officers approved by Brigadier-General Lyon; and, thirdly, by a gunshot wound in the flesh of the left arm above the elbow, received at the battle of Shiloh, Tenn., while commanding a brigade, these several wounds being aggravated by long and faithful service and exposure in the line of duty, the President directs that his name be placed on the list of retired officers of that class in which the disability results from long and faithful service, or from wounds or injury received in the line of duty. In accordance with section 32 of the act approved July 28, 1866, Major Sweeny is, by direction of the President, retired with the full rank of brigadier-general.

By command of General Sherman.

E. D. TOWNSEND, *Adjutant-General*.

J. R. MARTIN, *Assistant Adjutant-General*.

Mrs. Sweeny's petition to Congress is in the following words:

To Congress of the United States of America:

The petition of the undersigned, Eugenia R. Sweeny, respectfully shows:

I am the widow of Thomas W. Sweeny, late brigadier-general, United States Army, retired, deceased. I was married to him at Augusta, Ga., on September 30, 1867, and we lived happily together until his death on April 10, 1892, and I have not remarried.

My husband at the time of his death was an officer in the United States Army, holding the rank of brigadier-general, retired. I refer to his honorable war record from the time he entered the Army, serving through the Mexican war in 1846-1848, wherein he lost his right arm and received other wounds, afterwards on the great plains in the West, and all through our great and lamentable civil war, wherein he earned and attained the rank of brigadier-general.

In consequence of the loss of his arm and wounds received in active service my said husband was retired on the 11th day of May, 1870, with such rank of brigadier-general. Being physically incapacitated by reason of wounds received during service in the United States Army, consisting in the loss of his right arm, a saber cut on forehead, and bullets in legs and remaining arm, he never entered any private business or accepted any political position. His only income was his pay as such retired officer, and he had no property or other income of any kind. He had dependent upon him for support his family, consisting of two sons and two daughters, my mother, and myself. I had no property or income, and with so many dependent upon him for support my husband's whole salary was used to give his family a comfortable living, and he was unable to save any of it for the future, and on dying he left no property or estate. I am, and for many years have been, a partial invalid from rheumatism and nervous prostration, and am utterly unable to perform manual labor of any sort. My daughter Fannie has secured a position at a small salary, and is absent from home from early in the morning until late in the evening. One of my sons has also obtained a position at a very small salary, but must, when possible, learn and enter some other business before he can earn enough to support himself. My other son has no business, and by reason of a severed tendon in his arm is incapacitated for manual labor. Since my husband's death I have moved into a smaller house to secure a lower rent, and have taken boarders in the attempt to support myself and family, yet so small is the return that I can not hire a servant, hence my mother, who is aged 66 years, does most of the housework. My income is insufficient to provide myself and family with the necessaries of life.

Compelled by my necessities, I now petition that your honorable body will take note of them, and of my late husband's lifelong services rendered to the Government, preventing him from accumulating property, and grant me a life pension of at least \$50 per month.

Dated October 12, 1893.

EUGENIA R. SWEENY.

STATE OF NEW YORK, *County of Queens, ss:*

Eugenia R. Sweeny, being duly sworn, deposes and says that she is the petitioner named in the foregoing petition; that she has read the same and knows the contents thereof, and the same is true.

EUGENIA R. SWEENY.

Subscribed and sworn to before me this 12th day of October, 1893; and I hereby certify that the person who signed and executed the foregoing petition and affidavit

to be a creditable person and of good repute for truth and veracity in the community in which she lives, and that the contents of the above petition were fully known to her before signing.

[SEAL.]

WALTER G. SCOTT,
Notary Public, Queens County.

The following is General Sweeny's military record, as furnished by the War Department:

RECORD AND PENSION OFFICE,
War Department, December 20, 1894.

VOLUNTEER RECORD.

Thomas W. Sweeny was enrolled November 23, 1846, at New York, and was mustered into service as second lieutenant with Company A, First Regiment (Burnett's) New York Volunteers, December 23, 1846. He is reported present on the rolls of his company, except as follows:

Roll dated August 31, 1847, "Wounded severely at battle of Los Portales, August 20, 1847;" October 31, 1847, to February 28, 1848, "On sick leave from October 27, 1847;" April 30, 1848, "Absent on recruiting service October 26, 1847, General Orders, No. 328, October 26, 1847;" roll for May and June, 1848, not on file.

He was honorably discharged as second lieutenant, said company and regiment, March 16, 1848, to enable him to accept an appointment as second lieutenant, Second United States Infantry.

T. W. Sweeny, captain Second United States Infantry, was assigned to the command of a brigade of Missouri militia May 20, 1861, and was honorably mustered out as brigadier-general of Missouri Infantry August 14, 1861.

Thomas W. Sweeney was mustered into service as colonel, Fifty-second Regiment Illinois Infantry Volunteers, to date January 21, 1862, and is reported on the field and staff rolls of the regiment as follows:

Roll dated February 28, 1862, "Present," with remark: "On special duty in St. Louis, per letter of instructions, dated headquarters Department of Missouri, St. Louis, February 24, 1862;" April 30, 1862, "Present," with remarks: "Wounded in battle April 6, 1862, at Pittsburg, Tenn.;" June 30, 1862, "Absent," with remark: "Away on leave of absence;" August 18, 1862 (special muster), "Absent," with remark: "On leave of sixty days from June 26, 1862;" August 31, 1862, "Present," with remark: "Joined from leave of absence, August 30, 1862;" October 31, 1862, "Absent," with remark: "On detached service, commanding Second Division;" December 31, 1862, and February 28, 1863, "Absent," with remark: "On detached service, commanding First Brigade Dodge's division, per Special Orders, No. 9, dated headquarters Sweeny's division October 30, 1862."

He was honorably discharged as colonel of said regiment to date April 20, 1863, to enable him to accept an appointment as brigadier-general of volunteers.

The medical records show that Colonel Sweeny was wounded in the arm and had his horse shot under him at the battle of Pittsburg Landing, Tenn., April 6 or 7, 1862.

Thomas W. Sweeny was, while serving as colonel Fifty-second Illinois Volunteers, commissioned brigadier-general of volunteers March 11, 1863, to rank from November 29, 1862, and accepted the commission April 21, 1863. He is reported as follows:

In command of the First Brigade, Second Division, Sixteenth Army Corps, from date of appointment to July —, 1863; absent with leave to September —, 1863; in command of Second Division, Sixteenth Army Corps, from September 12, 1863, to July 24, 1864; relieved and ordered to Nashville, Tenn., in arrest, to await trial on charges preferred; stations from August to December 31, 1864, not given; January 1, 1865, at Louisville, Ky., under trial; acquitted by a general court-martial of the charges preferred; February — to April —, 1865, at Brooklyn, N. Y., awaiting orders; April 10, 1865, ordered to report to commanding general, Military Division, Mississippi, for duty. No further record of service found.

He was honorably mustered out of service as brigadier-general of volunteers August 24, 1865.

Respectfully submitted.

F. C. AINSWORTH,
Colonel, U. S. A., Chief Record and Pension Office.

The SECRETARY OF WAR.

Your committee are unanimously of opinion that this case is worthy of favorable consideration. The long and faithful service of the soldier, the wounds that he received in two wars, which finally compelled his retirement from the service, and the poor health and poverty of the widow make the case one of unusual merit, and we therefore recommend that the bill do pass.

NANCY G. ALLABACH.

FEBRUARY 13, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. McCLELLAN, from the Committee on Invalid Pensions, submitted the following

R E P O R T:

[To accompany S. 894.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 894) granting a pension to Nancy G. Allabach, having examined and considered the same, report it back to the House with a recommendation that it do pass, after being amended by adding at the end thereof the words "in lieu of that she is now receiving."

Your committee submit as their report the report on the same bill adopted by the Committee on Pensions, as follows:

The Committee on Pensions, to whom was referred the bill (S. 894) granting a pension to Nancy G. Allabach, have examined the same, and report:

The military record of Peter H. Allabach, who served as colonel One hundred and thirty-first Pennsylvania Volunteers, and also in the Mexican war, is as follows:

Peter H. Allabach was mustered into service as colonel One hundred and thirty-first Pennsylvania Infantry Volunteers August 18, 1862, to serve nine months; was in command of the Third Provisional Brigade from August 22, 1862, to October 10, 1862, and of the Second Brigade, Third Division, Fifth Army Corps, from October 16, 1862, to May 14, 1863; and was mustered out of service with the field and staff of his regiment May 23, 1863.

The records on file in the Office of the Adjutant-General of the Army show that Peter H. Allabach was enlisted in Company K, Third United States Infantry, at Philadelphia, Pa., November 25, 1844, was transferred to Company E, same regiment, September, 1849, and was discharged from the latter company, as a sergeant, at Paso del Norte, N. Mex., November 25, 1849, by reason of expiration of term of service.

Your committee, having become satisfied that the only income petitioner has is the Mexican war pension of \$8 per month and is supported by the charity of friends, therefore recommend the passage of the bill.

It will be observed that the soldier had an honorable service in two wars, and that he was a colonel in the late war. The widow was granted a pension of \$8 per month under the Mexican war pension law, and for this reason she has not applied for pension under the act of June 27, 1890.

CATHERINE R. JARDINE.

FEBRUARY 13, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. McCLELLAN, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany S. 345.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 345) granting a pension to Catherine R. Jardine, widow of Brig. Gen. Edward Jardine, have had the same under consideration, and submit as their report the report upon the same bill adopted by the Senate Committee on Pensions, as follows:

At the outbreak of the war, in 1861, Edward Jardine, then 32 years of age, recruited a company in New York and joined the Ninth New York Volunteers. He was rapidly promoted from captain to major, from that to colonel, and finally made a brigadier-general.

Having acquired a knowledge of military matters through his connection in his early years with the New York Seventh Regiment, National Guard, he brought with him to the war a spirit of discipline that made itself felt in his company and regiment from the very beginning. It was this spirit and knowledge, coupled with his courage and bravery, that contributed greatly to the subsequent success and fame of his regiment, known as the Hawkins Zouaves. Captain Jardine was particularly conspicuous in his early service with this regiment in the command of scouting and reconnoitering parties and in other special duties at the front that required courage and daring. Specially notable were his services in command of a small detachment of the Ninth New York in covering the retreat of the Union forces after the battle of Big Bethel, Va., and bringing away the body of Lieutenant Greble.

He displayed conspicuous gallantry and coolness in the landing of the troops at Hatteras Inlet, North Carolina, under the heavy fire of Forts Hatteras and Clark, in August, 1861.

At the first bayonet charge of the war on Roanoke Island, Jardine, in command of his company, was among the first to enter the enemy's works. His services were especially useful at Camden, Winton, and Elizabeth City, N. C., and earned for him his promotion to the rank of major. He took an active part in all the subsequent battles in which his regiment was engaged, and at the battle of Antietam he was assigned by General Fairchild to the temporary command of the Eighty-ninth New York Regiment, which afterwards presented him with a gold medal as a mark of the appreciation of the officers and men of that regiment of his gallant services while commanding it. An incident of that battle, which well illustrates the character of the man, has been thus described:

"At Antietam, brigaded with his old regiment, was the Eighty-ninth, to whom he was assigned as colonel ad interim, leading them over Antietam Creek, fighting in the water up to their armpits, then up the bank and away at their head, never faltering, although he saw the most cherished friends of his old regiment falling like grass before the scythe, until 63 per cent of those engaged had been killed or wounded, pausing only for a moment as an aid of General Rodman rode up to give him an order, which was interrupted by a shell exploding between them, killing the aid and almost blinding Jardine with the blood from the horse which fell dead at his side. The same shot killed the horse he was riding, hurling him violently to the ground. He arose, wiped the blood from his face, and calmly turning to his regiment, his command rang out to his astonished men, who thought him dead, 'Forward,' and on they went again, to sure and certain victory."

He afterwards rejoined his own regiment and participated in the battle of Fredericksburg and the engagements around Suffolk, Va.

In these fierce fights at the front he was badly wounded many times, his left thumb being almost severed from his hand, a ball piercing his thigh and destroying one kidney, and at another time he was severely injured in the right shoulder. He was wounded twice at the battle of Camden, April 19, 1862, and though suffering intensely he refused to leave the field until the fight was over, and not until the next day were his wounds dressed.

He came back to New York in 1863, when his regiment was mustered out, and at once undertook the reorganization of the regiment as colonel for the term of the war. While engaged in this duty the draft riots broke out in New York City in July, 1863, and Colonel Jardine was directed by General Wool, then chief in command of the department, to assist with what men he could raise in quelling the riot. He immediately called on all the men he could find of his old regiment and some of the Seventh, making in all about 175 men. With this handful of soldiers he marched against the mob, numbering nearly 15,000, most of whom were as well armed as his own men. They were soon overcome by sheer force of numbers, and one of the mob placed a loaded musket to Colonel Jardine's head, but just as it was discharged one of the zouaves struck the piece down, the charge entering Jardine's knee and thigh, making a frightful wound, it having been loaded with a slug made from a piece of lead pipe.

Some of his men managed to elude the rioters and bear him to a nearby house, where he was concealed in the cellar, seemingly in a dying condition. While there the house was forced, and his life was spared merely because the leader of the mob, on seeing his condition, said he was as good as dead now, and there was no use bothering with him.

From this wound he never recovered. Every day brought pain; operation after operation to extract fractured bone was borne by him with patient heroism. During the remaining thirty years of his life he had to go on crutches, and hardly knew an hour free from intense pain and distress. Obligated, however, to do something to maintain himself and his family, he accepted a subordinate position in the New York custom-house, which he retained until about four months before his death, when his sufferings became so great that he was compelled to relinquish his position and take to his bed, which he never afterwards left.

He underwent nine separate surgical operations on his thigh, the last one being in October, 1892.

During the four months preceding his death, in which General Jardine was confined to his bed, Mrs. Jardine, for whose relief the bill referred to your committee is drawn, was in almost constant attendance upon him, refusing to take rest, until she finally broke down under the strain of constant nursing and was herself in a physician's care, suffering from complete nervous prostration.

In view of the especially meritorious and useful services of General Jardine, and of his terrible wounds and intense suffering, which incapacitated him from earning a competency to leave for the support of his widow, and of the further fact that during the eight years of their married life Mrs. Jardine was devoted and constant in her unremitting care for her crippled husband, your committee recommend the passage of the accompanying bill.

Appended to this report is a letter from the War Department giving General Jardine's military record.

RECORD AND PENSION OFFICE, WAR DEPARTMENT,
Washington City, January 28, 1895.

SIR: Referring to your letter of the 22d instant, received to-day, by reference from the Adjutant-General of the Army, in which you request that a statement of the military record of Edward Jardine, late brigadier-general, be furnished you for the use of your committee, I am directed by the Secretary of War to inform you as follows:

Edward Jardine was mustered into service as captain Company G, Ninth New York Infantry Volunteers, May 4, 1861, and is reported on the muster rolls of his company as follows: To October 31, 1861, present; December 31, 1861, absent, sick. He returned January 14, 1862, and was mustered in as major, to date February 14, 1862. He is reported on the muster rolls of the field and staff as follows: April 30, 1862, present; to August 31, 1862, absent, cause not stated; October 31, 1862, absent, in command of the Eighty-ninth New York Volunteers from September 16 until October 24, 1862; December 31, 1862, absent with leave; February 28, 1863, present, with remarks, "Assumed command of regiment January 26; removed by Captain Barnett and appointed provost-marshal of the post February 10;" April 30, present. He was mustered out of service with the field and staff May 20, 1863, at New York City.

He was mustered into service as lieutenant-colonel Seventeenth New York Volunteers, October 17, 1863, and is reported on the muster rolls of the field and staff of that regiment as follows: October 31, 1863, absent, sick; December 31, 1863, absent, wounded, in New York; and is so reported to April 30, 1864.

He was honorably discharged the service as of that grade to date May 10, 1864, on tender of resignation, having accepted an appointment in the Veteran Reserve Corps, per Special Orders, No. 179, paragraph 10, of May 17, 1864, from Adjutant-General's Office.

He was appointed captain, Veteran Reserve Corps, May 4, 1864, to rank May 3, 1864; accepted appointment May 11, 1864, and his resignation was accepted April 12, 1866, per Special Orders, No. 170, paragraph 2, Adjutant-General's Office, of 1866.

He was not commissioned to the full grade of brigadier-general of volunteers, but was brevetted brigadier-general, United States Volunteers, November 2, 1865, for gallant and meritorious conduct.

The medical records show that while captain of Company G, Ninth New York Volunteers, he was admitted to general hospital, Fort Monroe, Va., July 4, 1861, with rheumatism, and was furloughed July 8, 1861; that while major of that regiment he was wounded in an engagement at Camden, N. C., April 19, 1862—contusion in the left leg by spent shot. No further medical record has been found in his case.

Very respectfully,

F. C. AINSWORTH,

Colonel, United States Army, Chief Record and Pension Office.

Hon. JOHN M. PALMER,

Chairman Committee on Pensions, United States Senate.

This bill passed the Senate December 21, 1895.

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CORN EXCHANGE NATIONAL BANK.

FEBRUARY 13, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DENNY, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 1486.]

The Committee on Claims, to whom was referred the bill (H. R. 1486) for the relief of the Corn Exchange National Bank, having had the same under consideration, respectfully submit the following report:

The material facts in this case are as follows:

In the latter part of March or early in April, 1875, one W. Fleet Steele, who was engaged, in the city of Philadelphia, in the business of ship plumbing, and had a capital of about \$2,500, learning that certain plumbing was about to be done on the U. S. S. *Quinnebaug*, then on the ways in the Philadelphia Navy-Yard, had an interview in relation to that work with Isaiah Hanscom, then chief of the Bureau of Construction and Repair in the Navy Department, at Hanscom's office in Washington, where no third person was present. It does not appear what passed between Steele and Hanscom in that interview, except that some verbal understanding was had between them for Steele to do the needed work.

After that interview, Steele sent Hanscom the following letter:

PHILADELPHIA, April 6, 1875.

SIR: I will furnish all material and labor for plumbing of the U. S. S. *Quinnebaug*, according to the requirements of the service and to the satisfaction of the inspecting officers, for the sum of \$14,500, and will take in whole or part payment any old brass or lead arising from old vessels that can be reworked for that purpose.

Respectfully, yours,

W. FLEET STEELE,
Skip Plumber, No. 3 South street.

I. HANSCOM,
*Chief of Bureau of Construction and Repair,
Navy Department, Washington, D. C.*

On the receipt of that letter the Bureau of Construction and Repair directed Naval Constructor Edward Hartt, then on duty at Philadelphia Navy-Yard, to draw up specifications of the plumbing work to be done on the *Quinnebaug*, and to obtain proposals from the ship plumbers in the vicinity to do the work. "Such proposals were received by the Bureau, but from whom does not appear, except that contained in the aforesaid letter, which was the lowest bid for the work."

On the 15th of April, 1875, the Bureau addressed the following letter to Naval Constructor Robert W. Steele, then on duty in Philadelphia in superintendence of the repairing or rebuilding of monitors at the different yards of Harlan & Hollingsworth, at Wilmington, Del.; Cramp &

Sons, in the northern part of Philadelphia, and John Roach & Sons, at Chester, Pa.:

NAVY DEPARTMENT,
Bureau of Construction and Repair, April 15, 1875.

SIR: Please have all the old lead, brass, and composition arising from breaking up the monitors, including the *Amphetrite*, *Miantonomoh*, and *Terror*, at the establishments of Messrs. Harlan & Hollingsworth, John Roach, and Wm. Cramp & Sons, carefully weighed, boxed up, and sent to Philadelphia, and report the amount to the Bureau.

Very respectfully, your obedient servant,

I. HANSCOM, *Chief of Bureau.*

Naval Constructor R. W. STEELE, U. S. N.,
424 Walnut Street, Philadelphia, Pa.

Naval Constructor Steele delivered to said W. Fleet Steele the old material mentioned in this letter and took his receipts for it July 7, 1875; that he interpreted the letter as authority from the Bureau to do so appears from the first lines of the following letter from him to the chief of that Bureau two days afterwards. The Bureau by its silence seems to have acquiesced in that interpretation:

PHILADELPHIA, *July 9, 1875.*

SIR: In obedience to your instructions, I respectfully report that there has been delivered to W. Fleet Steele, plumber, of this city, 103,949 pounds of old material from the monitors broken up at the works of the Harlan & Hollingsworth Company, of Wilmington, Del., and from Wm. Cramp & Sons, this city, embracing brass, lead, iron, putty, glass, and gum attached, estimated to be worth \$2,000, which will be deducted from his first payment for the plumbing work on the U. S. S. *Quinnebaug*. I beg to say that it was impossible to arrive at a satisfactory estimate of its value when appraised, as there was much alloy and dirt mixed with it, and the cost of transportation and labor in separating and preparing it for use is not known, which makes it necessary to correct the value after I obtain full information on the subject and before his contract is completed and adjusted.

Very respectfully, your obedient servant,

R. W. STEELE,
Naval Constructor, U. S. N.

I. HANSCOM, U. S. N.,
Bureau Construction and Repair, Navy Department, Washington, D. C.

On the 30th of July, 1875, said Hanscom sent to said W. Fleet Steele, plumber, a letter, as follows:

NAVY DEPARTMENT, BUREAU OF CONSTRUCTION AND REPAIR,
Washington, July 30, 1875.

SIR: Referring to your offer of the 6th of April, 1875, to do all the plumbing work on the *Quinnebaug* for the sum of \$14,500, the Bureau considers the sum named too high, and proposes to you that you shall do all the necessary plumbing work, that is to say, furnish all necessary ship's water-closets, urinals, with tanks, cocks, valves, waste pipes and other lead pipes connecting the same; also the lining of the head and manger with head pumps; all the necessary dills; also lining the bowsprit bed, hawse pipes, galley bed, ship's scuppers, air ports, rudder case, chocks, magazines, shell rooms, passages, light boxes, boat ammunition room, sail room, bread room, pantry, and furnishing sea cocks, channel pumps, deck pumps, bilge pumps, fresh water pumps, copper strainers, sounding pipes, sills, etc.

And in consideration of your doing the work as above set forth, the Bureau agrees to pay the sum of \$12,000. The old materials the Government will furnish to you to be reworked, which have accumulated from the breaking up of the light-draft monitors *Koka* and *Minnetonka*, at Wilmington, Del., and the *Algoma* and *Otsego*, at the works of Cramp & Sons, Philadelphia, will go towards the materials used in this work. The balance to be paid in two equal payments, in money, on the certificate of the naval constructor superintending the work that the work is satisfactorily completed according to the specifications which will be furnished.

Please notify the Bureau in writing of your acceptance of this proposition.

Respectfully, etc.,

I. HANSCOM, *Chief of Bureau.*

W. FLEET STEELE, Esq.,
Philadelphia, Pa.

To which Steele replied as follows:

PHILADELPHIA, August 2, 1875.

SIR: I accept the proposition and terms of your letter of July 30, 1875, and will proceed with the work to completion as rapidly as the vessel may be prepared for the reception of the same for the sum of \$12,000, "as named by you," utilizing and reworking the old material delivered to me for that purpose.

Respectfully, etc.,

W. FLEET STEELE, *Ship Pumber.*

I. HANSCOM, U. S. N.,

Chief Bureau of Construction, Navy Department, Washington, D. C.

Before the correspondence above there does not appear to have been any advertisement by the Navy Department inviting proposals for the doing of the work.

It does not appear that said Steele did any work on the *Quinnebaug* until after this correspondence took place. It, however, does appear that, after the correspondence, he removed certain other old material from the Philadelphia Navy-Yard under written passes, some of which were signed by Naval Constructor Hartt and the others by Assistant Naval Constructor John B. Hoover; that he was charged for this other material as follows: August 21, 1875, \$50; September 4, \$50, and November 18, \$200; and that these first two items, together with \$2,000, the estimated value of the material mentioned in the above-named letter of Naval Constructor Steele, aggregating \$2,100, were deducted from his first payment for the plumbing.

It also appears that W. Fleet Steele sold or otherwise disposed of a large part of this material after he prepared it for sale, by breaking it up, handling, sorting, and separating the gum, glass, dirt, and other alloy from the metals, at a price higher than that at which it was charged to him; that this sale and disposition was made prior to the commencement of his work on the *Quinnebaug*, prior even to August 2, 1875, the date of his letter accepting Hanscom's proposition.

Hanscom, knowing from the foregoing letter of Naval Constructor Steele of July 9, that the material referred to in his (Hanscom's) letter of April 15, had then already been delivered to said W. Fleet Steele, wrote to Commodore George Henry Preble, commandant of the Philadelphia Navy-Yard, as follows:

NAVY DEPARTMENT,

Bureau of Construction and Repair, August 12, 1875.

SIR: Inclosed please find copy of a proposition made by the Bureau to Mr. W. Fleet Steele to do the plumbing work on the *Quinnebaug* for the sum of \$12,000, which has been duly accepted by him, and the specifications for doing the work are herewith forwarded.

You will please direct the naval constructor superintending the work to have it proceeded with as rapidly as the other work on the *Quinnebaug* will allow.

With regard to the old materials to be furnished, as mentioned in the letter inclosed, they will be supplied to the contractor at a fair valuation, and when the work, in the opinion of the superintendent, has sufficiently progressed to entitle the contractor to the first of the two money payments provided for in the agreement, bills for the same will be made and certified by him for the approval of the Bureau. A reservation of 15 per cent will be withheld from the amount of this bill, which reservation, as also the second payment, will not be paid until the completion and acceptance of the work.

Respectfully, your obedient servant,

I. HANSCOM, *Chief of Bureau.*

Commodore GEO. HENRY PREBLE, U. S. N.,

Commandant, Navy-Yard, Philadelphia.

After August 2, 1875, the date of Steele's letter accepting the Bureau's proposition which, in connection with Hanscom's letter of July 30, 1875, constituted the written agreement with the Bureau of Construction and Repair, Steele proceeded to do the plumbing work on the *Quinne-*

baug, and on the 8th of November, 1875, the following voucher was issued by the United States Navy Department and delivered to him:

LABOR.

The United States Navy Department to W. Fleet Steele, Dr.

[Appropriation, construction and repair, Bureau of Construction and Repair.]

To one-half cost of plumbing of *Quinnebaug*, less value of old materials..... \$3,900

Bureau order, August 12, 1875.

Entered.

WM. S. C. FUSSELL, *Clerk to Commandant.*

Having fully examined the above charges, I certify the same are correct.

JOHN B. HOOVER,

Assistant Naval Constructor, U. S. N.

CONSTRUCTOR'S OFFICE UNITED STATES NAVY-YARD,

Philadelphia, November 8, 1875.

NAVY-YARD, LEAGUE ISLAND, *November 8, 1875.*

This bill is approved for the sum of thirty-nine hundred dollars.

GEO. H. PREBLE,

Commodore, Commandant.

PAYMASTER'S OFFICE, ——— ———, 187—.

Received of ——— ———, paymaster U. S. N., ——— dollars and ——— cents, in full of the above bill.

This voucher or obligation represents the stated account and settlement of one-half of the compensation for the work as agreed upon between Steele and the Navy Department, as per Hanscom's said letter of July 30, 1875, viz, the sum of \$6,000.

The stated account or settlement being as follows:

Estimated value of old material delivered to Steele as found by the United States Naval Board.....	\$2,000
Old material delivered to him:	
August 21, 1875.....	50
September 4, 1875.....	50
Voucher or pay obligation of November 8, 1875.....	3,900
Total.....	6,000

The above voucher for \$3,900, on presentation and indorsement, was paid by W. W. Williams, paymaster U. S. N., and Steele received the amount thereof on November 11, 1875.

For some reason Steele did not complete the work, and on the 28th of September, 1876, the following instructions were sent from the Navy Department to the commandant of the League Island Navy-Yard:

NAVY DEPARTMENT,

Bureau of Construction and Repair, September 28, 1876.

SIR: You will please appoint a board, consisting of the naval constructor, assistant naval constructor, and the foreman plumber of the yard under your command, who will examine the plumbing work of the U. S. S. *Quinnebaug*, now at the yard of Messrs. Neafie & Levy, Philadelphia, and report what proportion of said work has been done up to date by W. Fleet Steele under his agreement of July 30, 1875; also reporting the sum which, in their opinion, is now due him, estimating on the basis of the agreed amount (\$12,000), which, under agreement referred to, he was to receive for doing the entire plumbing work of that vessel.

When the report is submitted you will please have bills made for the amount stated by the board to be due, forwarding same to the Bureau, with report.

Respectfully, your obedient servant,

I. HANSCOM, *Chief of Bureau.*

Capt. C. H. WELLS, U. S. N.,

Commandant Navy-Yard, League Island.

In pursuance of these instructions Commandant Wells appointed a board which made the following report:

NAVAL CONSTRUCTOR'S OFFICE, UNITED STATES NAVY-YARD,
League Island, Pa., October 2, 1876.

SIR: In obedience to your order of the 29th ultimo, appointing us a board to examine the plumbing of the U. S. S. *Quinnebaug*, now at the yard of "Messrs. Neafie & Levy, Philadelphia, and report what proportion of said work has been done up to date by W. Fleet Steele under his agreement of July 30, 1875; also reporting the sum which, in your (our) opinion, is now due him," we have to report that, upon a careful examination and estimate of the work referred to, we find that about eight-tenths has been completed, in accordance with the agreement, which entitles him to receive, in old plumbing materials and money, the sum of \$9,600 in all.

Mr. Steele has received approved bill, dated November 8, 1875, for \$3,900 and	
old materials valued at \$2,100	\$6, 000
And has since received old material valued at	200
Total payment.....	6, 200

We are of the opinion that the sum due him to date is \$3,400.

We are, sir, very respectfully, your obedient servants,

PHILIP HICHBORN,
Naval Constructor, U. S. N.
JOHN B. HOOVER,
Assistant Naval Constructor, U. S. N.
JOHN B. COFFIN,
Foreman Plumber.

Capt. C. H. WELLS, U. S. N.,
Commandant Navy-Yard, League Island, Pa.

Steele had performed, as reported by this examining board, four-fifths of the work which was to be done by him under the agreement, the value of which was \$9,600. Of this \$9,600 he had received in money (the voucher of November 8, 1875) \$3,900, and in old material, at its estimated value, the sum of \$2,100, making \$6,000. He had also received other old material, valued at \$200, making in all \$6,200, and the board reported that the sum due Steele to date was \$3,400.

In conformity to the report of this naval board the Navy Department on October 5, 1876, issued in triplicate the following-described voucher:

LABOR.

The United States Navy Department to W. Fleet Steele, Dr.

[Appropriation, construction and repair, Bureau of Construction and Repair.]

Balance due for plumbing work on U. S. S. <i>Quinnebaug</i> , per agreement dated	
July 30, 1875, as per report of board October 2, 1876.....	\$3, 400
Entered.	

WM. J. MANNING, *Clerk to Commandant.*

In triplicate.	\$3, 400.
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Having fully examined the above charges, I certify the same is correct.

PHILIP HICHBORN, *N. C.*

NAVAL CONSTRUCTOR'S OFFICE, UNITED STATES NAVY-YARD,
League Island, October 5, 1876.

NAVY-YARD,
League Island, October 5, 1876.

This bill is approved for the sum of thirty-four hundred dollars — cents.
\$3,400.

C. H. WELLS, *Captain, Commanding.*

PAYMASTER'S OFFICE, ———, 187—.

Received of ———, paymaster, U. S. N., ——— dollars and ——— cents in full
of the above bill.

As there was no appropriation available at this time, the United States Navy Paymaster was without funds to pay this \$3,400. Steele therefore indorsed the voucher by signing the paymaster's receipt, which receipt was a part thereof, and in accordance with the practice then in vogue sold it to the Corn Exchange National Bank, of Philadelphia, receiving therefor the sum of \$3,350 in cash.

No appropriation having been made to pay this voucher, it remains still in the possession of the Corn Exchange National Bank.

In the report of the Secretary of the Navy, under date of November 30, 1877, page 279, transmitting to Congress a statement made by the chief of that bureau of the indebtedness of the Bureau of Construction and Repair and asking for an appropriation to pay such indebtedness, this voucher or bill of indebtedness of \$3,400 for work done by Steele included therein was examined by the House Committee on Expenditures in the Navy Department of the Forty-fifth Congress, and the amount to pay the same was included in the sum named in the following resolution, the adoption of which was recommended by the committee:

That the Committee on Appropriations be, and hereby is, instructed to report an appropriation in the sum of \$3,217,738.76, or so much thereof as may be necessary, to enable the Secretary of the Navy to pay the claims mentioned to the respective parties named hereinbefore. (See No. 787, volume 4, Reports of Committees, second session, Forty-fifth Congress.) The appropriation bill as passed did not, however, include the amount. (Extract from Report of Fourth Auditor of the Treasury to the Secretary, dated November 16, 1889.)

The lack of an appropriation was the only reason assigned or known by the Navy Department for the delay in payment of this voucher, as clearly appears from the following letter from that Department to the cashier of the Corn Exchange National Bank:

NAVY DEPARTMENT, BUREAU OF CONSTRUCTION AND REPAIR,
Washington, June 28, 1878.

SIR: Your letter of the 26th instant, relative to the bill of W. Fleet Steele, \$3,400, has been received, and the Bureau can only inform you that this bill was not included in the deficiency bill act approved June 14, 1878.

The reasons for the omission are unknown to the Bureau.

Respectfully, etc.,

J. W. EASBY, *Chief of Bureau.*

Mr. H. P. SCHETKY, *Corn Exchange Bank, Philadelphia.*

In April, 1880, an action [No. 12318, decided February 18, 1884] "W. Fleet Steele, to the use of the Corn Exchange National Bank, *v.* the United States," based on this voucher, was instituted in the Court of Claims.

There was no controversy on trial over the voucher. The Government, however, set up a counter claim against W. Fleet Steele for the whole amount received by him in 1875 for the old material sold by him, which old material had been delivered to him by Government officers at that time. The Government claimed judgment in its favor upon the ground that this old Government material had been unlawfully (in violation of the statutes which require that such old material shall be sold at public sale, and that the proceeds thereof shall be covered into the Treasury) delivered by the United States naval constructor to said Steele.

The court sustained the counterclaim and gave judgment against Steele for \$3,575.56.

The court held (19 Ct. Cls., 181; 113 U. S. 128):

(1) That the oral contract, if any, made by the Chief of the Bureau of Construction and Repair of the Navy Department was void, under

the provisions of section 3744, Revised Statutes, requiring certain contracts to be in writing.

(2) That a naval constructor in the Navy has no authority to turn over old material to a contractor, and that his doing so confers no title.

(3) That the transfer of old material in the Navy in payment of work done, or to be done, or in exchange for other material is, in effect, prohibited by sections 1541 and 3618, Revised Statutes.

(4) That a naval contractor who receives old material in part payment of his account for services rendered is not an innocent purchaser.

(5) That a person who receives old material contrary to the provisions of the statutes and sells the same acquires no title, and is liable to the Government for the proceeds of such sale.

It is thus shown that W. F. Steele, the contractor, was employed in 1875 by the Navy Department to do the plumbing work on the U. S. S. *Quinnibaug*.

His agreed compensation was to be \$12,000, provided he completed the work according to the specifications furnished by the Department.

As part payment he was to take such old material as might be delivered to him at a fair valuation.

Certain old material was delivered or sold to him by the proper officers of the Department.

A board of naval officers was appointed September 29, 1876, by the commandant of the Philadelphia Navy-Yard, in pursuance of instructions of September 28, 1876, from the Navy Department, for the special purpose of ascertaining and reporting "what proportion of said work has been done up to date by W. Fleet Steele under his agreement of July 30, 1875, also reporting the sum which, in your (our) opinion is now due him."

That said board under date of October 2, 1876, found and reported that Steele had completed about eight-tenths of the work, "in accordance with the agreement which entitles him to receive in old plumbing materials and money the sum of \$9,600 in all," and that he had received therefor \$6,200, reporting the value of the old material included at \$2,300, the board concluding their report thus:

We are of the opinion that the sum due him to date is \$3,400.

In pursuance of this report the Navy Department under date of October 5, 1876, issued the following voucher or pay obligation in settlement of the matter:

LABOR.

The United States Navy Department to W. Fleet Steele, Dr.

[Appropriation, construction, and repair, Bureau of Construction and Repair.]

Balance due for plumbing work on U. S. S. *Quinnebaug*, per agreement dated July 30, 1875, as per report of board October 2, 1876..... \$3,400
Entered.

WM. J. MANNING, *Clerk to Commandant.*

In triplicate. \$3,400

Having fully examined the above charges I certify the same is correct.

PHILIP HICHBORN, N. C.

NAVAL CONSTRUCTOR'S OFFICE, UNITED STATES NAVY-YARD,
League Island, October 5, 1876.

NAVY-YARD,
League Island, October 5, 1876.

This bill is approved for the sum of thirty-four hundred dollars — cents.
\$3,400.

C. H. WELLS, *Captain Commanding.*

PAYMASTER'S OFFICE, ———, 187—.

Received of ———, paymaster, U. S. N., ——— dollars and — cents in full of the above bill.

On December 1, 1876, Steele indorsed this voucher or obligation by signing the blank receipt and had it discounted by, or sold it to, the Corn Exchange National Bank and received therefor \$3,350.

The purchase was made by the bank in all good faith as shown by the following:

AFFIDAVIT OF THE PRESIDENT OF THE BANK.

CITY AND COUNTY OF PHILADELPHIA, ss:

J. Wesley Supplee, being duly sworn according to law, doth depose and say that he is the president of the Corn Exchange National Bank of Philadelphia, and that as such he is familiar with the affairs of the bank; that the said bank is the owner and holder for value of an obligation of the United States for the payment of the sum of \$3,400, which said obligation is based on a stated and adjusted account of a settled and acknowledged indebtedness of the Government of the following nature and character, namely—

That on the 1st day of December, 1876, the said Corn Exchange National Bank purchased from W. Fleet Steele for the sum of three thousand three hundred and fifty dollars, in cash, the following described voucher.

United States Navy Department to W. Fleet Steele, Dr.

[Appropriation, construction and repair, Bureau of Construction and Repair.]

Balance due for plumbing work on U. S. S. <i>Quinnebaug</i> , per agreement dated	
July 30, 1875, as per report of board, October 2, 1876.....	\$3,400
Entered.	WM. J. MANNING, <i>Clerk to Commandant.</i>
\$3,400.	

Having fully examined the above charges I certify the same is correct.

PHILIP HICHBORN, *N. C.*

NAVAL CONSTRUCTOR'S OFFICE, UNITED STATES NAVY-YARD,
League Island, October 5, 1876.

NAVY-YARD,
League Island, October 5, 1896.

This bill is approved for the sum of thirty-four hundred dollars — cents.	
\$3,400.	C. H. WELLS, <i>Captain Commanding.</i>

At the time of the purchase of this voucher, which is shown by the books of the bank was on the date already stated, this deponent is informed, and believes it to be true, that the president of the bank before making the said purchase was informed and assured by a Mr. Russell, who was at that time navy agent, or pay agent, or pay director for the United States in Philadelphia, that the said voucher was as good a voucher as could be made by the Government, and said Russell recommended him to buy the said voucher, and relying upon this assurance and the nature and the form of the voucher itself the purchase was made in perfect good faith by the said bank.

Deponent further states that the entire amount represented by the voucher is still entirely due, unpaid, and owing to the said Corn Exchange National Bank, and that the bank has never parted with the same.

J. WESLEY SUPPLEE.

Sworn and subscribed this 21st day of February, A. D. 1890, before

[SEAL.]

A. P. RUTHERFORD, *Notary Public.*

It had been the constant practice of this and of other banks to purchase similar Navy vouchers in the same manner they purchased Government bonds and other negotiable paper, as appears from the following affidavit:

AFFIDAVIT OF THE CASHIER OF THE BANK.

John B. Stewart, of the city of Philadelphia, on oath deposes and says he is the cashier of the Corn Exchange National Bank of Philadelphia; that he is familiar with its mode of business, both present and past; that in the year 1876, and a long time prior thereto, it frequently purchased Navy vouchers of contractors, when duly receipted, for work, etc., done by them for the United States, and that it was accustomed to purchase them in the same manner it purchased Government bonds and other negotiable paper; that according to the best of his knowledge and informa-

tion and belief, other banks in Philadelphia and elsewhere were accustomed to purchase such vouchers in the same way; that this practice had become a general one and was well known to the United States paymasters and other Government officers, and that no objection had ever been made to paying such vouchers directly to the bank whenever and as soon as there was an appropriation from which to do so; that in December, 1876, said bank purchased from one W. Fleet Steele, who was then engaged in the city of Philadelphia in the business of ship plumbing, a certain voucher duly receipted by him for \$3,400, as "Balance due him for plumbing work on U. S. S. *Quinnebaug*, per agreement dated July 30, 1875, as per report of board, October 2, 1876;" that this voucher was certified to be correct by Philip Hichborn, naval constructor, at United States navy-yard, League Island, was duly approved for the sum of \$3,400 by Capt. C. H. Wells, then commander at said yard, and duly receipted by said Steele; that said bank paid said Steele the sum of \$3,350 in cash for said voucher; that the purchase was made by the bank, as similar vouchers had frequently been purchased before, and after it had received assurances from a Mr. Russell, then a navy pay director at Philadelphia, that the voucher was as good as could be made by the Government, and with his recommendation to buy it; that it was made for a valuable and adequate consideration without any knowledge on the part of the bank of any infirmity in the voucher and without knowledge of anything calculated to put the bank on further inquiry; that the only reason known to the bank for its nonpayment to Steele was the fact that the appropriation to which it was chargeable had been exhausted.

And this deponent further says that the following is a list of a part of the vouchers similar to that purchased of said Steele, that have been purchased by it from various contractors and other persons to whom these obligations had been issued by the Government, and that these vouchers were afterwards paid by the Government to the bank at the several times specified in said list, and were paid in the manner and form hereinafter described:

Copy of statement from Corn Exchange National Bank.

NAVY VOUCHERS.

Bought Jany. 6, 1876, \$2,676; paid Mar. 27, 1876.
 Bought Jany. 6, 1876, \$573.44; paid Oct. 17, 1876.
 Bought Feb. 5, 1876, \$2,738.40; paid Mar. 28, 1876.
 Bought June 5, 1876, \$564.50; paid Nov. 15, 1876.
 Bought June 5, 1876, \$552.55; paid Nov. 15, 1876.
 Bought June 8, 1876, \$2,738.40; paid June 24, 1876.
 Bought June 8, 1876, \$2,676; paid June 24, 1876.
 Bought Oct. 1876, \$543.90; paid Nov. 15, 1876.
 Bought Nov. 23, 1876, \$5,957.50; paid April 23, 1878.
 Bought Dec. 23, 1876, \$130.60; paid Dec. 30, 1876.
 Bought Dec. 23, 1876, \$283.20; paid Dec. 30, 1876.
 Bought Dec. 23, 1876, \$123.85; paid Dec. 30, 1876.
 Bought Dec. 23, 1876, \$237.42; paid Dec. 30, 1876.
 Bought Jan. 11, 1877, \$2,150; paid July 18, 1878.
 Bought Jan. 30, 1877, \$470.67; paid Jan. 17, 1878.
 Bought Mar. 22, 1877, \$4,350; paid May 22, 1878.
 Bought May 5, 1877, \$112; paid Dec. 22, 1877.
 Bought May 5, 1877, \$55; paid Dec. 22, 1877.
 Bought May 26, 1877, \$366.93; paid Dec. 24, 1877.
 Bought Aug. 27, 1877, \$324.41; paid Oct. 20, 1877.

All the above vouchers were paid at the dates specified by checks from Paymaster or Pay Director A. W. Russell, drawn in each case to the order of the Corn Exchange National Bank.

JOHN B. STEWART.

CITY OF PHILADELPHIA, *State of Pennsylvania*, ss:

On this 24th day of February, A. D. 1892, before me, the subscriber, a notary public of the State of Pennsylvania, residing in the city of Philadelphia, personally appeared John B. Stewart, the cashier of the Corn Exchange National Bank, known to me to be such, and being duly sworn did depose and say that the facts set forth in the foregoing affidavit were true to the best of his knowledge and belief.

Witness my hand and notarial seal the day and year aforesaid.

[SEAL.]

A. P. RUTHERFORD, *Notary Public*.

Acknowledgment (Notary).

STATE OF PENNSYLVANIA, *County of Philadelphia*, ss:

I, William B. Mann, prothonotary of the county of Philadelphia and clerk of the court of common pleas for the county of Philadelphia, which are courts of record,

having a common seal, being the officer authorized by the laws of the State of Pennsylvania to make the following certificate, do certify that A. P. Rutherford, esq., whose name is subscribed to the certificate of the acknowledgment of the annexed instrument and thereon written, was at the time of such acknowledgment a notary public for the Commonwealth of Pennsylvania, residing in the county aforesaid, duly commissioned and qualified to administer oaths and affirmations and to take acknowledgments and proofs of deeds or conveyances for lands, tenements, and hereditaments in said State of Pennsylvania, and to all whose acts, as such, full faith and credit are and ought to be given, as well in courts of judicature as elsewhere, and that I am well acquainted with the handwriting of the said notary public and verily believe his signature thereto is genuine; and I further certify that the said instrument is executed and acknowledged in conformity with the laws of the State of Pennsylvania.

In testimony whereof I have hereunto set my hand and affixed the seal of said court this 24th day of February, in the year of our Lord 1892.

[SEAL.]

WILLIAM B. MANN, *Prothonotary*.

Contractors were often unable to wait for their pay until an appropriation should be made, or until one already made should have become available. They had, therefore, been forced into the practice of negotiating through the banks those vouchers on which they could not obtain immediate payment; and, indeed, the issuance by the Government of such vouchers (evidences of indebtedness, obligations, or promises to pay) in advance of an appropriation was for the express purpose of enabling contractors, who were engaged in the public service, to negotiate them and thus obtain the money, which was often absolutely necessary to insure a continuance of the Government work.

It was customary for the purchaser of such vouchers to present them to the Government Navy paymaster, and when there was an available appropriation it was customary for the paymaster, where these vouchers were receipted by the party in whose favor they were issued, to give his official drafts or checks for the amount thereof and to make those drafts or checks payable to the order of the party who presented the voucher. The purchase by the bank was warranted by, and in accord with, this practice.

The Government issued this verified and approved obligation and placed it in Steele's possession in 1876, in payment of a stated and settled account of that date, at which time it was purchased by the bank.

The fraud ascertained subsequently in 1884, as found by the court, in connection with the transactions out of which the obligation arose, was a fraud on the part of Government officers and the contractor, for which they might be held accountable; but the bank is an innocent purchaser, a bona fide holder for value, and is entitled to the benefit and protection of that just and familiar principle of law that, in cases where one of two innocent persons must sustain a loss through the fraud, ignorance, or mistake of a third person, he who reposed confidence in such third person and placed in his hands the means of committing such fraud must sustain the loss. (On this point see 26 Vt., 112; 4 N. H., 455; 12 Ill., 240; 5 Gilman, 425; 14 Howard U. S., 468.)

The rule of caveat emptor and the other one that he who deals with a public officer is bound to know whether the officer's acts are within the scope of his lawful authority, are sound and valuable as general rules of law; but in many cases, as in this one, a rigid application of them works great injustice. Besides, in this case, the bank was not dealing with a public officer. It was simply purchasing, in the ordinary course of its business, a voucher which had been examined, approved, and issued by such officers acting within the scope of their lawful authority.

The bank comes to Congress not in any defense of the acts of the Government's officers, who unlawfully disposed of old material in 1875 to Steele, nor for the law applicable to the conduct of such officers or to Steele, but it appeals to Congress for the equity due itself, for that wherein the law, by reason of its universality, is defective; it asks that the sale and delivery of the voucher in question by Steele to it shall be regarded as an equitable transfer of title against the Government; and in view of the practice in vogue, aforementioned, to wit, the issuing of such vouchers in advance of an appropriation out of which they can be paid, the form and character of the voucher itself, the object or purpose of its advance issuance and the customary payment of those vouchers directly to the parties who had purchased them, the bank asks that this voucher shall be treated as vouchers of the same character have uniformly been treated by the banks and by the Government, namely, as a negotiable instrument, negotiable on its face, transferred to an innocent purchaser before maturity for a valuable and adequate consideration, and therefore not subject, in the hands of the innocent purchaser, to the Government's counterclaim, set up against the seller, Steele, but not so set up until six years after the purchase.

It asks this as a matter of common justice recognized by all fair-dealing business men.

It asks that it shall not be made to suffer for the wrong doing of the Government's officials, especially when it was not a party to such wrong and had no dealings whatever with those officials.

The Court of Claims has no equity powers and could not, therefore, grant the bank the equitable relief to which it is clearly entitled and for which it now appeals to Congress.

And your committee recommend the passage of the bill.



GEORGE H. LOTT.

FEBRUARY 13, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DENNY, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 5229.]

The Committee on Claims, to whom was referred the bill (H. R. 5229) for the relief of George H. Lott, of Mississippi, have carefully considered the same and report it back to the House with the recommendation that it do pass.

The facts in this case are briefly as follows:

The contract for mail service on Route No. 26530, in the State of Mississippi, was let to one W. B. Catchings, of Kentucky, for the price and sum of \$220 per annum, and he in turn sublet the contract to one E. Brocket, for the sum of \$180 per annum. Brocket failed to perform the service as per contract and the postmaster at Stix, Miss., thereupon engaged Mr. Brocket, by the month, to perform this service, which he did for six months and then quit. Said postmaster, acting under authority, then offered the contract to bidders, and requested G. H. Lott to bid for the contract and give the bond. This Lott consented to do, doubtless with the commendable desire of securing efficiency in the service rather than the pecuniary profit to be derived therefrom. Lott, being only a farmer, having no other mail contract, and not familiar with the postal laws and regulations, employed to do this service the son of the postmaster at Stix, which was in violation of the postal regulations.

This fact coming to the knowledge of the Second Assistant Postmaster-General, he, as required by law or postal regulation, withheld the salary of Mr. Lott, amounting to \$148. A petition for revocation of the order withholding said sum and its payment to Mr. Lott, was filed in the Post-Office Department, but refused because of no authority in law for such action.

It appears from the petition on file, a copy of which is in the hands of the committee, the affidavit of G. H. Lott, and letter from the Second Assistant Postmaster-General, that the service was faithfully performed, the mails always promptly delivered, and the law in all respects complied with except in the matter of the employment of the postmaster's son as carrier of said mail. Said route extends between Stix (now Hecla) and Hattiesburg, Miss., a distance of $6\frac{3}{4}$ miles, and the mails are delivered daily except Sundays.

ESTATE OF WILLIAM MOSS, DECEASED.

FEBRUARY 13, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. Cox, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 1334.]

The Committee on Claims, to whom was referred the bill (H. R. 1334) for the relief of the estate of William Moss, deceased, having had the same under consideration, beg leave to report the same with the recommendation that it pass.

The House report on this bill, No. 856, Fifty-third Congress, second session, fully sets forth the facts, and your committee adopt the same, and make it a part of this report.

[House Report 856, Fifty-third Congress, second session.]

The Committee on Claims, to whom was referred the bill (H. R. 1126) for the relief of William Moss, have carefully considered the same and report it back to the House with the recommendation that it do pass, hereby adopting the report made in the case by Mr. Mansur to the Fifty-second Congress, which is as follows:

[House Report No. 703, Fifty-second Congress, first session.]

The Committee on Claims, to whom was referred the bill (H. R. 3207) making an appropriation for the benefit of the estate of William Moss, deceased, have had the same under consideration and report it back with the recommendation that it pass.

A similar bill was favorably reported to the House in the Fifty-first Congress. The facts are correctly stated in the Senate report, 110, on Senate bill 114, which report your committee adopt as its own.

William Moss was contractor for the transportation of the United States mails from Washington, Ark., to Clarksville, Tex., in 2-horse hacks, for four years from July 1, 1854, at \$6,300 per annum.

In the beginning of the year 1855 (about six months after Moss commenced on his said duties) the Postmaster-General increased the service from Little Rock to Washington from three to six times a week. That, about the same time, a new post route was established from Gaines Landing to Washington, in 4-horse stages, six or seven times a week. That, about the same time, the service from Shreveport to Washington was increased from once a week on horseback to three times a week in 2-horse stages, and soon after again increased to a daily in 4-horse stages.

That said new mail service was made to hasten the delivery of mail matter in eastern and northeastern Texas, which before that time had been going by the way of New Orleans, making a long circuit. This was cut off by these direct lines across the country, and the mail matter for that section of Texas and beyond was sent over these and then over Moss's route from Washington to Clarksville.

The testimony shows that in consequence of these changes almost all the Texas matter which came over all these lines had to be carried out by Moss, and it followed, as a matter of course, that his 2-horse service was unequal to the task.

That in consequence thereof he was about to resign. The postmaster urged him

to continue the service. He was also urged to continue it by Arthur Hayes, then United States mail agent for a district including this point, and had come to Washington, Ark., especially to examine into this service. That the postmaster and said agent assured Mr. Moss if he would increase his lines to a 4-horse stage service, and carry the mail, that the Government would pay him extra compensation for the same, and that Mr. Hayes promised to place the matter properly before the Postmaster-General and urge him to pay just extra compensation therefor. That, in view of these promises, Mr. Moss did put on 4-horse coaches, and promptly delivered the mails thereafter to the end of his contract.

The then postmaster, R. A. Phillips, says, in his affidavit: "Moss's expenses must have been largely increased by this increase of service; it required twice the number of horses and harness, twice the capital, twice the forage, indeed I must say, twice an increase in everything, save alone in his vehicles and stage-drivers, and I would feel safe in assuming that he ought reasonably to have had an increase of from 75 to 100 per cent upon his original contract for all additional service."

So, if we estimate the pay according to the above statement, Mr. Moss would be entitled to an extra compensation of about \$18,900, if we calculate at 100 per cent for three years; or if we calculate at 75 per cent, it would be \$14,175. It further appears that Mr. Moss's 2-horse service was first-class in every particular; that the horses were good, and the coaches were comparatively new and in good condition; that in making the change he was not only required to buy stages, but to sell his 2-horse coaches at great loss; that his drivers, who had been receiving from \$12 to \$15 per month, demanded, and he had to pay them, largely increased wages for driving the 4-horse stages.

Upon examination of the records of the Senate, we find that Moss petitioned this body as far back as the first session of the Thirty-fifth Congress, and he has constantly from that to the present time appealed to Congress by petition or bill. With the petition filed in the Thirty-fifth Congress was a large batch of evidence; but the petition and evidence were withdrawn from the records May 17, 1858, and in lieu thereof there was left this memoranda:

"1858. Thirty-fifth Congress, first session:

"Petition and additional papers in support of the claim of William Moss, praying compensation for losses sustained in carrying the mail from Washington, Ark., to Clarksville, Tex.

"May 17, 1858. Leave to withdraw.

"May 17. The above papers and petition handed to Mr. Johnson in person.

"M. D."

Hon. Robert W. Johnson was at that time a Senator from Arkansas, and, as is well known to the author of this report, was a warm personal friend of Moss. This petition and the papers in support of it are hopelessly lost. The records further disclose the fact that Moss again appealed to the Senate, Forty-fifth Congress, first session, and again in the same Congress, second session, and to the House, Forty-third Congress, second session, and the Forty-fifth Congress, second session, and also the Forty-sixth Congress, second session, and the Forty-seventh Congress, first session, and subsequent Congresses.

It further appears that he also applied to the Postmaster-General for increase of said service during the time he was carrying said mails, and that as far back as 1860 he employed James B. Stewart to present his claim to any authorities empowered to pay the same; that Stewart died, and he subsequently appointed Pike & Johnson and then Hosmer & Co. for the same purpose. And we find several communications between himself and Hon. William F. Slemmons, who was a Member of Congress from Arkansas from 1876 to 1880, and also considerable correspondence between him and the author of this report while a Member of the House. We also find a bill in this behalf introduced by him December 12, 1887. So there seems to be no want of diligence. In fact, it rather appears that Congress and the Departments have been constantly importuned, but without relief. We will not undertake to repeat all or any considerable part of the evidence, but will make some extracts from it.

There was a favorable report, No. 1796, made in this case August 2, 1882, by Mr. Buchanan, of the Committee on Claims, in the House, but this recommended the payment of only \$3,500. From this we make some extracts. The claimant, in his affidavit, March 4, 1882, says:

"My original contract was to transport the mail in two-horse hacks. After I had stocked the line the weight of the mails increased, and before the end of one year had so increased that I was compelled to increase my stock. I had twelve horses. I had to double from end to end of my line. My recollection is I ran this increased service three years; it was imperatively necessary to add this additional stock to do the work. My drivers all demanded an increase of wages from \$12 to \$15 per month up to \$25 and \$30. Leaving out the cost of stages, my expenses were increased nearly or exactly 100 per centum."

In another affidavit, which he made February 22, 1867, he says:

"In addition to the increased service on the Little Rock route there was established a line from Gaines Landing to Washington, Ark., in four-horse daily stages, and a route from Shreveport, La., to Washington in two-horse coaches, three times a week; and that with all this accumulation of service his remained as it was. His service with few exceptions supplied all of northwestern Texas. He had determined to abandon his contract, but in response to a letter from the Postmaster-General and under the directions of Arthur Hayes, mail agent, he was advised not to do so, as there could be no doubt that Congress would give him relief, as had been done in case of Little Rock and other routes. He put on three horses for a short time, and as they could not do the service he put on four.

"This was done by the advice and request of the said Hayes, and he so ran in good faith within a fraction of three years. This increase service commenced in a very early part of 1855, and continued till June 30, 1858. He claims 100 per centum increase for three years."

And in his affidavit, July 9, 1872, he says:

"At the time he commenced said service all the mails concentrating at Washington, Ark., were horse mails except the one from Little Rock; and the mail he had to carry would not average over one or two hundred pounds per trip. About one year after his contract, the route from Little Rock to Washington was increased to a four-horse daily; in addition to this a line was established from Gaines Landing to Washington (a four-horse daily), and another from Louisiana to Washington (a two-horse triweekly).

"Washington was the depot for all this accumulation of mail matter and, with small exception, it had to go over his line to Texas; hence he applied to have his service increased to four-horse, but it was not done, and he determined to abandon his contract, but in response to Postmaster-General's request and of Arthur Hayes, mail agent, he increased to four horses. At that time the weight of the mail was from 700 to over 1,000 pounds each mail. With the two-horse service only twelve horses were necessary, but with the increase service twenty-four were necessary; said increase commenced in the early part of 1855 and was continued until June 30, 1858. He claims 100 per centum increase per annum on his original bid, and that, owing to the loss of stock, would not fully compensate him."

In his affidavit January 22, 1878, he says:

"I am seventy-two years old; been a citizen of Arkansas since 1818. In addition to the statements heretofore made, I state that soon after the expiration of contract in 1858 I went to Washington, D. C., to prosecute my claim. I thought I could get relief through the Post-Office Department. Through Senator Robert W. Johnson I secured introduction to A. V. Brown, Postmaster-General, before whom I laid my case. He said he regarded my claim as just and meritorious, but had no power to grant relief, but would recommend Congress to grant me relief. I prepared my claim and put it in the hands of Peter G. Washington, an attorney, to prosecute it before Congress. I frequently corresponded with the said Washington, and also with one Joseph Stewart, a claim agent, and time and again urged them to activity. This I kept up until the beginning of the war; after the war I renewed my application, about 1868. I used all the diligence I could or knew how in the prosecution of my claim, except going to Washington in person, which I have been and am now too poor to do.

"For a similar increase of matter and necessary increase of mail service, Hanger & Ayliff, on the Little Rock and Washington route, were granted relief and paid for such extra service. My line was an extension of theirs, and I was burdened with their additional mails and, in addition, the Gaines Landing and Shreveport mails."

R. L. Phillips, the then postmaster, in his affidavit of February 22, 1876, says:

"I was appointed postmaster in 1838, resigned in 1849; was reappointed in 1852, held till beginning of the rebellion; was reappointed after the war, continued till September, 1868. In 1854 said Moss became the contractor (above described); two-horse coaches three times a week. In the beginning of 1855 the route from Little Rock to Arkansas was increased to six times and from two to four horses, and Hanger & Ayliff's pay was accordingly increased; same time a new post route was established from Gaines Landing, four horses six times a week, and from Shreveport increased from once a week on horseback to three times a week, two horses; then six times a week, four horses.

"The mails for northeastern Texas were brought through these lines to Washington; had to pass over Moss's line. Moss could not carry the mails with his service, and had to increase to four horses. He first proposed to abandon his contract, but at our joint solicitations, Mail Agent Hayes and myself, he increased to four horses and carried the mails promptly and faithfully to the end of his contract. Hayes promised to place the matter before the Postmaster-General and urge him to allow extra compensation. The average mail that then went out on Moss's line was near 1,000 pounds per trip. The increase service required twice the number of horses

and harness, twice the capital, twice the forage—indeed, I might say twice in everything. Moss received a letter from the Postmaster-General giving encouragement to him to put on the increase service.”

And in another of his affidavits, November 28, 1860, he says:

“He knows the statement made by James Satterfield to be true; that the mail matter deposited at Washington, above described, would not have weighed less than 3,000 pounds per week, all of which, with exception of mere trifle, had to pass through Moss’s line.”

And on the 11th day of December, 1877, he says:

“I have known William Moss since 1836. Not long after Moss took contract there was a very large increase in the amount of mail matter received in my office, owing to great increase of mail facilities all over the State, but particularly from Little Rock, from Gaines Landing, and from Shreveport to Washington, Ark. Besides these there were several other lines terminating at Washington. Washington was then the focus where nearly all the leading routes in the southern part of State concentrated. The route from Little Rock to Washington, thence to Clarksville, Tex., was a sort of trunk line. Moss’s vehicles were not large enough nor horses strong enough to haul the mass of mail matter which came to my office.

“This increase was *not taken into consideration when he took his contract*. He increased his service on the assurances of Mr. Hayes that he would use his influence to have him paid therefor. Moss was fined by the Department for failing to carry all the mail matter, the amount being beyond the capacity of his stages and teams. I know that before he increased the service he hired extra wagons and teams and sent through the accumulated matter which was beyond the capacity of his two-horse service. I know that his increased service was over the entire line. I know that the mails going to Texas over his line were so great that he could not have transported them in two-horse stages. When Moss took the contract the average weight of the mails per trip did not exceed 250 pounds. The increase was rapid until they weighed over 1,100 pounds per trip. This was the only line of stages carrying the mail north and west of Shreveport into Texas. I know James Satterfield to have been a truthful and honest man, and I know of my own knowledge that a portion of the facts stated by him are true.

And in an affidavit December 2, 1873, he (Phillips) says:

“Moss commenced carrying the mail on the 1st day of July, 1854. At the time of the commencement his two-horse service was sufficient, but soon the matter became heavier and heavier from new routes coming to Washington, so that Moss found it impossible to carry it with his service. He threatened to resign. I advised him not to do so; to wait for Hayes to come round. When Hayes came I represented the matter to him. *He said he had heard from others that Moss was doing all he could*. He and Moss consulted together in my presence; he advised Moss to put on three horses. Moss said that would not be sufficient. I agreed with Mr. Moss, and told Hayes that a spike team would not be sufficient. He advised Moss to increase to four, if necessary, and he was *perfectly satisfied* that the Post-Office Department or Congress would compensate him; *that it would put the Government to great trouble to relet the route*. Mr. Moss tried three horses for about a month, and had to put on four.”

Matthew Moss, March 4, 1882, says:

“I resided in Hempstead County, Ark., since 1819; am seventy-five years old; brother to petitioner. I know that William Moss carried the mail from Washington to Clarksville from 1854 to 1858; began in two-horse hacks. Sometime after he began he increased to four-horse stages; mails too heavy to be transported by two. The average mail was about 1,100 pounds. From my knowledge of the country over which this mail had to pass, I feel no hesitation in expressing the opinion that it could not have been carried by two-horse conveyances.”

Richard Brooker, March 4, 1882:

“I am fifty-six; have known Moss since 1856; am a blacksmith; in January, 1856, removed to Washington, Ark.; was in the shop of Smith & Herry; Moss’s horses were shod there; he was running four horses in his stages.”

James Satterfield, November 27, 1860:

“He was Moss’s stage driver from November, 1854, to June, 1858. He was on the section from Washington to Paraclifta, about forty miles. At first the number of sacks were from five to seven—he would suppose weighed about five or six hundred pounds; that on account of the increase of other lines, was impossible to transport the mails with two horses; he so informed Mr. Moss, and that unless he increased his teams he could not drive for him. He then gave me three horses, and also increased the service all through to three horses. He was again compelled to raise the service to four horses, and so continued until the end of his contract. The number of sacks carried got to be from seven to eleven, and all full, weighing from ten to twelve hundred pounds.”

H. W. Smith, November 28, 1860:

“Was a keeper of a hotel at Washington at the time Moss entered on the service,

July 1, 1854, with two horses; he kept his horses. Is well acquainted with James Satterfield, and knows that his statements above are true."

S. T. Sanders, December 11, 1877:

"Have resided in Washington since 1836; clerk of circuit court from 1838 to 1868, and knew William Moss since 1833; in 1854 or 1855 he was a mail contractor; was always regarded as one of the best citizens, honest, upright, and correct in all transactions. He (Moss) was for a number of years register of the land office at Washington, Ark.; discharged duties with faithfulness; also know Robert L. Phillips; citizen of Washington, and has been for many years; was postmaster at the time Moss carried mails. I have heard his (Phillips's) affidavit read; believe it to be true; also know James Satterfield and H. W. Smith. I know he (Satterfield) drove for Moss; was poor, but honest; Smith was rich; several times elected to the legislature; was a man of truth and veracity. I believe their statements to be true."

John S. Cannon, December 11, 1877:

"Knew William Moss from 1854 to 1858; he had the mail contract from Washington to Clarksville, Tex.; commenced with two horses, increased to three, and in a short time to four. I think the mail was carried three times a week. Moss told me he had increased to four on account of the great increase of mail matter. I think the four horses were on for the greater part of Moss's contract. Moss was a man of the strictest integrity. Knew Robert L. Phillips since 1836; he always stood high as a man of truth and veracity. Also Simon T. Sanders, clerk, etc.; his character for purity and uprightness has been a byword. H. W. Smith was upright, honest, and truthful. James Satterfield, stage driver, regarded as honest and upright."

W. B. Simms, affidavit, January 7, 1878, says:

"Been a citizen of Red River, Tex.; personally acquainted with Moss. In December, 1855, I opened a hotel in Clarksville, Tex., and kept a stable. Moss was running a stage line at that time from Washington to Clarksville, carrying United States mail. I kept his horses till contract ended in 1858. He at first had two-horse stages; afterwards three horses, and in a short time four."

All of these witnesses except one (several of whom are now dead) were well known to the writer of this report as men of high character and the strictest integrity.

It will be seen that the contract began July 1, 1854, and the evidence shows that in the very early part of the year 1855 Moss had to increase his service to three horses, and soon thereafter—Phillips says, "In about one month;" Cannon says, "In a short time," and Simms says, "In a short time"—he had to increase to four; so it will be seen that there was over three years of increase service, and all of that with four horses, except about one month.

Moss does not, nor does any of the witnesses, state exactly when the four horses were put on, but Moss swears, in speaking of the four-horse service, "he so run in good faith for within a fraction of three years."

Along here the recollection seems to be at fault, but, putting three-horse service and four-horse service, he lumps the whole together and says:

"He claims in justice and equity that he is entitled to 100 per centum per annum on his original bid of \$6,300 for three years."

This would be \$18,600. Phillips says that the new routes which increased the mail were established about the beginning of the year 1855—about six months after the beginning of Moss's contract; so Moss must be substantially correct as to time. The contractors on the route from Little Rock to Washington were paid, for the increase service required of them during this four years of service, the sum of \$29,600, the same being 100 per centum upon the original contract price.

Taking into consideration the fact that it took double the number of horses and, of course, double in everything that was used for them; that Moss had to double the wages of his drivers, and that he had to sacrifice his two-horse coaches and buy four-horse stages, it would seem that 100 per centum for three years would not be unreasonable, and every witness in the case testifies that this would be reasonable, except one, Mr. Phillips, the postmaster, who states that 75 to 100 per cent would be reasonable. Accepting this lowest estimate as being one to which the Government could not object, we respectfully recommend that the bill be amended by striking out the words "twenty-two thousand five hundred and fifty" and inserting in lieu thereof "fourteen thousand one hundred and seventy-five," and that as amended the bill pass.

SAMUEL H. SENTENNE AND PAUL BOILEAU.

FEBRUARY 13, 1896.—Committed to the Committee of the Whole House and ordered
to be printed.

Mr. BRUMM, from the Committee on Claims, submitted the following

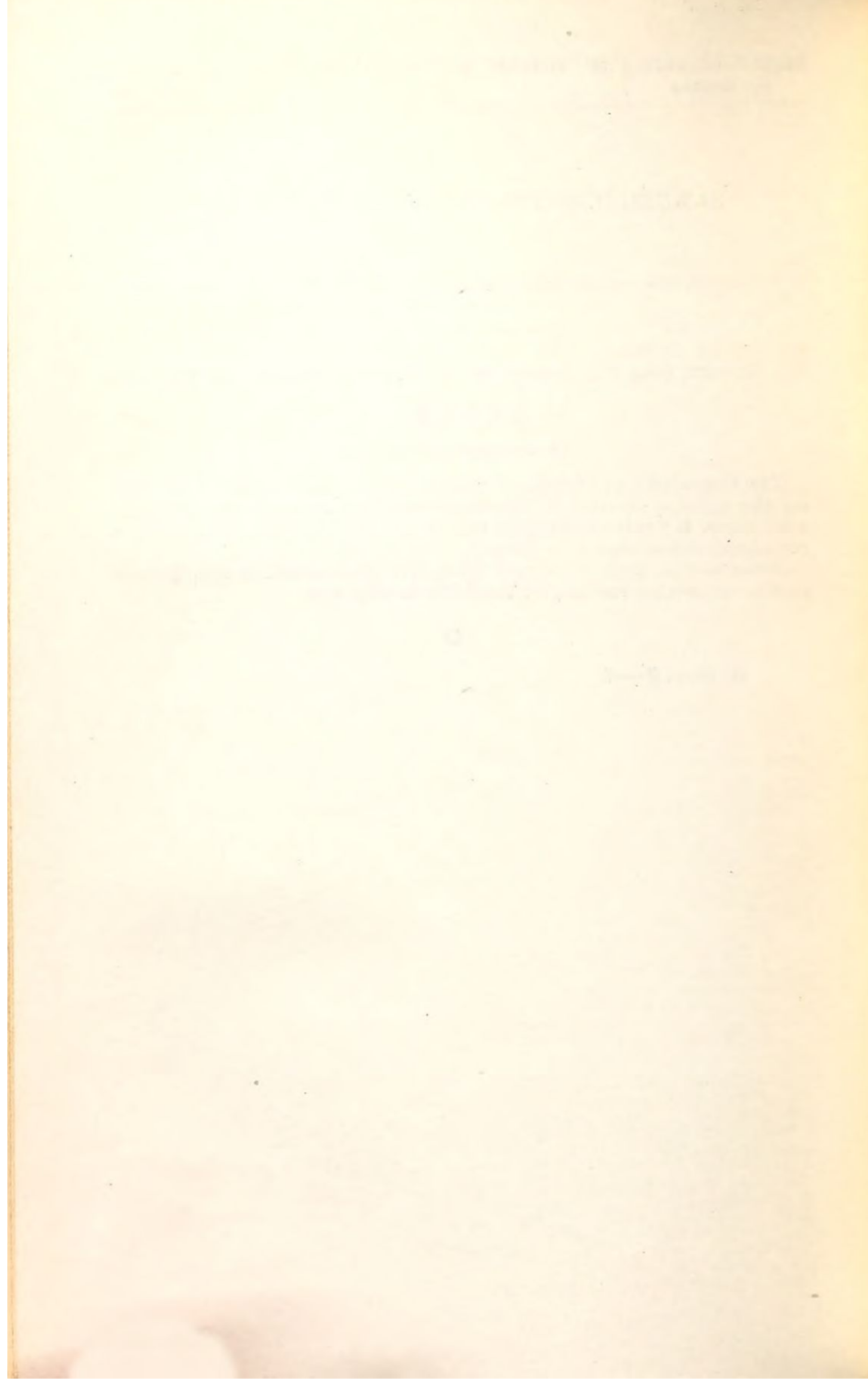
REPORT:

[To accompany H. R. 2838.]

The Committee on Claims, to whom was referred the bill (H. R. 2838) for the relief of Samuel H. Sentenne and Paul Boileau, have carefully considered the same and report the same back to the House with the recommendation that it be passed.

Reference is made to House Executive Document No. 120, Fiftieth Congress, second session, for the facts in this case.





OLIVIA AND IDA WALTER, HEIRS OF THOMAS U. WALTER.

FEBRUARY 13, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WOODARD, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 154.]

The Committee on Claims, to whom was referred the bill (H. R. 154) for the relief of Olivia and Ida Walter, heirs of Thomas U. Walter, having had the same under consideration, beg leave to report the same with the recommendation that it pass.

The House report on this bill, No. 732, Fifty-third Congress, second session, fully sets forth the facts, and your committee adopt the same and make it a part of this report.

[House Report No. 732, Fifty-third Congress, second session.]

Your committee, to whom was referred House bill 1326, beg leave to report:

This claim has heretofore received the favorable consideration of the committee of the Senate and passed the Senate for the sum of \$25,000. In the last Congress it passed the Senate for \$14,000. The committee of the House acted favorably on both bills of the Senate, but they were never reached on the Calendar. The facts in brief are as follows:

In the year 1850 the Government determined to build the new wings of the Capitol. At that time there was no such office as Government Architect, and the Government advertised for plans and specifications for the extensions, just as an individual would. Various plans were submitted, but that of Charles U. Walter, who had spent most of his life in Europe studying his profession, was accepted. The contract as architect was awarded Mr. Walter, and he accepted, and his pay for that special work was fixed at \$4,500 per annum, as shown by the following letter of Mr. Stuart, then Secretary of the Interior:

DEPARTMENT OF THE INTERIOR, *October 9, 1851.*

SIR: I have to inform you that your salary as architect of the extension of the Capitol has been fixed by the President of the United States at \$4,500 per annum, to commence from date of your appointment.

I am, very dear sir, very respectfully, your obedient servant,

ALEX. H. H. STUART, *Secretary.*

Subsequently the Hon. Mr. Stuart says: "This, I feel very sure, was a single and separate contract, relating exclusively to the two wings of the Capitol and the corridors connecting them with the old building."

Thus it will be seen that Mr. Walter was not a Government officer, but he was employed and paid for the specific work above referred to.

Mr. Walter displayed such taste, capacity, and energy in the execution of his work, the Government assigned him to perform the following duties: To add wings to the Patent Office, which, when completed, became the great Interior Department building; the extension of the Treasury building; extension of the Post-Office building; to make the fireproof Congressional Library; to plan and personally supervise the erection of the immense dome of the Capitol, which required his hourly presence; marine barracks in Pensacola; marine barracks at Brooklyn, N. Y., and other valuable public services.

These services ran through the period of fourteen years, from 1851 to 1865, and by the estimate of architects would amount to over \$100,000. They embraced nearly the whole of Mr. Walter's professional life, for so arduous were his services and the strain on his mind that he was subsequently incapacitated for any important work.

It appears that Mr. Walter's desire was to live on the sum paid him for the extension of the Capitol and to reserve the amount for these important extra services as his compensation and as furnishing the means to support himself and family. After he had completed all these extra works he was informed by the Treasury Department that there was no appropriation for that purpose, and he must rely on Congress. Then he filed his memorial. Since then he died, leaving his will, giving to his wife and daughters his interest; since, his wife has died, leaving the two daughters, who are single and without any means of support.

Your committee thinks it the merest act of justice to allow the sum of \$14,000, the sum fixed by the Senate, as it seems, at \$1,000 a year for fourteen years, for Mr. Walter's labor in all these matters. Your committee feel it due to his memory to state that no work was ever more superbly done, and that his work reflects credit on this Government, for which he comparatively gave his life. Therefore your committee report back the bill with the amendment to strike out "twenty-five" and insert "fourteen," so that it will read, "fourteen thousand dollars," with a recommendation that it do pass.

[House Report No. 1588, Fifty-second Congress, first session.]

The Committee on Claims, to whom was referred House bills 4512 and 4513, having had the same under consideration, together with Senate bill 259, the two bills being for the relief of the same party and for the same cause, recommend that said Senate bill 259 be substituted for said House bills 4512 and 4513, and that the House concur with the Senate in the passage of said Senate bill.

Senate Report No. 178, Fifty-third Congress, Second Session.

Mr. PASCO, from the Committee on Claims, submitted the following

REPORT:

[To accompany S. 409.]

This claim has heretofore received the favorable consideration of this committee and of the Senate, and in again recommending favorable action the report submitted during the last Congress is adopted as a part of the present report, the bill being identical with that upon the same subject which was before the committee during the Fifty, second Congress, except that the original claimant, Amanda G. Walter, executrix of the last will and testament of Thomas U. Walter, has died since this claim was last considered, and it is now prosecuted by Olivia and Ida Walter, heirs and children of Thomas U. Walter, deceased, and also of the late Amanda G. Walter.

This report is as follows:

The Committee on Claims, to whom was referred bill S. 259, having carefully considered the same, submit the following report thereon:

The claim involved in this case was first presented for legislative action to the Fiftieth Congress. A favorable report was made by the House Committee on Claims and the bill was placed upon the calendar and remained there until the final adjournment. The Senate bill upon the same subject was referred to this committee, but no action was taken upon it. The claim was originally in favor of the late Thomas U. Walter, now deceased, who was employed by the President June 11, 1851, as architect to execute the plan for the extension of the Capitol, as authorized by the act of September 30, 1850. Upon his death his widow, Amanda G. Walter, became the executrix of his last will and testament, and she now has control of and is urging the claim.

A similar bill, in favor of the widow as executrix, was presented in both Houses of the Fifty-first Congress, and the Senate bill was referred to the Committee on Claims. A report was made favoring an appropriation of \$25,000 in full settlement of the claim, but no action was taken in the Senate, and the bill was on the calendar when Congress adjourned.

The claim originated in the acceptance of other responsibilities and the performance of other work, in the line of his profession as an architect, for the Government, not enumerated in his letter of appointment and, as Mr. Walter claimed in his lifetime, not included in the duties of that appointment and not compensated for by his regular salary.

The following letter from the present Secretary of the Interior recites such of these employments of Mr. Walter as are shown by the records of that Department, and it seems clear that he received from the Government, during the years he acted as architect for the extension of the Capitol, no other compensation than the actual salary of that office, amounting, as the record shows, to \$4,500 per annum.

DEPARTMENT OF THE INTERIOR,
Washington, March 28, 1890.

SIR: I have the honor to acknowledge the receipt of your letter of the 22d inst., inclosing a copy of Senate bill No. 837, in behalf of Amanda G. Walter, executrix of Thomas U. Walter, deceased, referred to you as a subcommittee of the Committee

on Claims for examination, and requesting such information as the records of the Department may afford touching the designation of Mr. Walter as architect in charge of the erection of the wings of the Patent Office building, services rendered in such capacity, and whether any provision was made for his payment therefor, etc.

In reply thereto I have to state that it appears from the records of the Department that Mr. Walter was appointed architect of the Capitol extension June 11, 1851, and that on the 29th of July, 1851, he was designated as superintendent of construction of the wings of the Patent Office building; on the 31st of July he accepted such appointment and thereafter appears to have prepared plans for the work which are now on file; that on the 30th of April, 1862 (in pursuance of joint resolution of April 16, 1862, transferring the supervision of Capitol extension and erection of new dome to the Interior Department), he was authorized to resume his duties as architect of the work, and on the 28th of February, 1863, he was directed to perform such duties in relation to the Patent Office building as had theretofore been discharged by Mr. Edward Clark, architect; thereafter he appears to have continued to discharge such duties up to the time of his resignation, March 31, 1865. No record is found of any authority for the payment to Mr. Walter of any compensation for work performed as superintendent of construction of the Patent Office building under the designation of July 29, 1851, nor can it be ascertained whether he actually received any compensation for services so rendered, inasmuch as the accounts of the Commissioner of Public Buildings and Grounds, by whom the appropriation for the extension of the Patent Office building was disbursed, are not in file in this Department.

For the services rendered by him in connection with the erection of the wings of said building after February 28, 1863, it will be seen from the inclosed copy of a letter addressed by the Department under date of February 24, 1864, to the Hon. Solomon Foote, chairman of the Senate Committee on Public Buildings and Grounds, that Mr. Walter received no compensation whatever. In relation to the character of the service rendered as superintendent the records of the Department are not very clear; more definite information on that point may be obtained from the reports of the Secretary of the Interior and Commissioner of Public Buildings and Grounds in relation to the progress of the work embraced in House Ex. Doc., part 1, Thirty-second Congress, second session, volume 1, pages 35 to 45 and 581; House Ex. Doc. No. 1, part 1, Thirty-third Congress, second session, volume 1, page 599; Senate Ex. Doc. No. 1, Thirty-fourth Congress, first session, volume 1, page 130; House Ex. Doc. No. 1, part 1, Thirty-fourth Congress, third session, volume 1, pages 181 and 852; Senate Doc. No. 11, Thirty-fifth Congress, first session, volume 2, pages 68 and 723; Senate Doc. No. 1, part 1, Thirty-fifth Congress, first session, volume 2, pages 68 and 723; House Ex. Doc. No. 1, Thirty-seventh Congress, third session, volume 2, page 601.

In this connection your attention is invited to the inclosed copy of a letter addressed by the Department on the 27th of March, 1884, to the Hon. Thos. Ochiltree, House of Representatives, in response to a request from him for a report upon the memorial of Thomas U. Walter to Congress for compensation for services performed by him, made under the direction of the Secretary of the Interior in the extension of the Patent Office building, and repairs on the Congressional Library, etc., from which it will be seen that Mr. Edward Clark, to whom the matter was referred, reported that he was the certifying officer for the expenditures incurred in the extension of said building and that in his opinion Mr. Walter received no compensation for services in connection therewith, etc. Copies of the appointment of Mr. Walter as superintendent of the work referred to, his resignation of the office of architect of the Capitol extension, and such other papers from the files and records of the Department as bear upon the subject of your inquiry are herewith transmitted.

Very respectfully,

JNO. W. NOBLE,
Secretary.

Hon. SAMUEL PASCO,
United States Senate.

The extract from the letter to Hon. T. P. Ochiltree of March 27, 1884, written by Hon. H. M. Teller, when Secretary of the Interior, above referred to, is as follows:

"Upon reference of your letter and the inclosure to Edward Clark, esq., the present Architect of the Capitol, and who was the architect in immediate charge of the extension of the Patent Office building, he reports as follows: As I was the certifying officer for the expenditures incurred in the extension of the Patent Office building, I am clearly of the opinion that Mr. Walter received no compensation for his services in connection therewith; nor do I find any record in this office of payment to Mr. Walter specifically for services as architect for the reconstruction of the Congressional Library Rooms."

The accompanying letter from the present Secretary of the Treasury, and the letters which follow it (1) from Secretary Chase, of December 28, 1863; (2) from Supervising Architect Rogers, February 5, 1864, and (3) from Secretary Chase,

February 13, 1864, show that Mr. Walter rendered other services in connection with the extension of the Treasury building. Secretary Windom's letter also tends to show that the compensation received by Mr. Walter was limited to the salary attached to the original employment.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., May 16, 1890.

SIR: Your letters of March 23d and April 17th, last, were duly received and briefly acknowledged on the 21st ultimo, requesting information for your use in consideration of Senate bill 837 to adjudicate the claim of Amanda G. Walter, executrix of Thomas U. Walter, deceased, now before you as a subcommittee of the Senate Committee on Claims.

I have the honor to inform you that the accounts and records of this Department, as far as presumed to be connected in anyway with the several items of the bill in question, have been carefully searched, covering a period of several years subsequent to the date of Mr. Walter's appointment as Architect of the Capitol, viz:

June 11th, 1851, and particularly the records of the Treasury extension, subsequent to the passage of the act of March 12th, 1855, for the continuation of the Treasury building under the direction of the President of the United States, according to the plans proposed by Mr. Walter, and approved by Committee of the Senate and of the House of Representatives on Buildings and Grounds, but have failed to find in this examination any information of value to you in the connection named.

The accounts of the disbursing agents for that period are registered and recorded under the name of the disbursing officer or agent and examination has been made of the accounts of the persons known to have been acting in that capacity at any time during the period named, but no disbursements appear for architectural designs or other services rendered by the late Thomas U. Walter.

It is presumed that from the Interior Department may readily be obtained the desired information as to the length of time Mr. Walter drew his regular salary, viz, \$4,500 per annum as Architect of the Capitol. The original design for the continuation of the building, signed by Mr. Walter as architect, and bearing indorsed thereon the approval of the Committee of Public Buildings and Grounds of both the Senate and House of Representatives over the signatures of J. A. Bayard and Burton Craige as chairmen, respectively, of the two committees, is filed in the office of the Supervising Architect, and also a plan of the original design of Robert Mills contemplating the completion of the building in sandstone as began upon the east front. At Mr. Mill's death Mr. Walter modified the plans for granite construction and made many changes from the original design.

As further evidence to you of Mr. Walter's connection with the Treasury extension, I inclose herewith copy of a letter addressed to him by the then Secretary of the Treasury, Hon. S. P. Chase, under date of December 28, 1863, asking his opinion particularly as to the cost, utility, and architectural effect of a proposed alteration of the south portico vestibule of the Treasury extension, and also of a letter addressed by the then Supervising Architect, Isaiah Rogers, under date of February 5, 1864, to Secretary Chase, and the Secretary's reply thereto dated February 13, 1864.

A sectional drawing, partially destroyed, is on file in the Architect's office, showing the alterations proposed and adopted.

Respectfully, yours,

WM. WINDOM,
Secretary.

Hon. S. PASCO,
Committee on Claims, United States Senate

TREASURY DEPARTMENT, *December 28, 1863.*

If compatible with your public duties I would desire your examination (in conjunction with Mr. C. L. West, superintendent of the dome Capitol extension) of a proposed alteration of the south portico vestibule of the Treasury extension and your opinion (in writing) on the practicability, cost, utility, and architectural effect of such alteration.

You will find papers and plans describing it in the office of the Supervising Architect of this Department, who will give you all the information and assistance you may desire. I would be obliged to you for an early attention to this matter if possible.

Very respectfully,

S. P. CHASE,
Secretary of the Treasury.

THOS. U. WALTER, Esq.,
Architect U. S. Capitol extension.

TREASURY DEPARTMENT, *February 5, 1864.*

I have the honor to acknowledge the receipt of the report of Mr. T. U. Walter upon the proposed change in the south portico of the Treasury Building, and presume, as he fully indorses my plan except on one point, it is only necessary to explain the difference between us.

The question is purely one of expense, Mr. Walter's plan involving an expenditure of \$11,854.18 over and above mine, according to the inclosed estimate of the sworn computer of this office. The plan suggested by Mr. Walter had been previously considered by me and rejected as extravagant. I therefore recommend the adoption of the plan as originally proposed.

Very respectfully,

ISAIAH ROGERS,
Supervising Architect.

Hon. S. P. CHASE,
Secretary of the Treasury.

TREASURY DEPARTMENT, *February 13, 1864.*

SIR: I have received your letter of the 5th instant, reporting upon the plan of Messrs. T. U. Walter and C. L. West for the proposed alteration in the south portico of the Treasury building, which differs in some particulars from the plan presented by you.

You are hereby authorized to make the alteration suggested, and to use your discretion as regards which of the two plans presented shall be followed, and after making your selection you will strictly adhere to the one decided upon, in executing the work.

I am, very respectfully,

S. P. CHASE,
Secretary of the Treasury.

ISAIAH ROGERS, Esq.,
Supervising Architect.

A letter from the present Postmaster-General and a copy of one accompanying it from Hon. James Campbell, formerly Postmaster General, dated June 3, 1854, show that services were rendered the Government by Mr. Walter in connection with the extension of the building of that Department.

OFFICE OF THE POSTMASTER-GENERAL,
Washington, D. C., March 26, 1890.

SIR: I have the honor to acknowledge the receipt of your letter of the 22d instant submitting a copy of a bill (S. 837) to adjudicate the claim of Amanda G. Walter, executrix of Thomas U. Walter, deceased, for certain services as architect, among others for his alleged services touching the extension and continuation of the Post-Office building. You ask for such information as the records of this Department may contain in regard to this matter.

I beg to advise you in reply that a search of the index to letters recorded in this Department has led to the discovery of one letter, a copy of which is herewith inclosed, which makes allusion to "a report and estimate from Mr. Walter," which were submitted by the Postmaster-General on the 3d of June, 1854, to the chairman of the Committee on Public Buildings of the Senate, together with plans prepared by the Architect of Public Buildings, and estimates for extending the Post-Office building.

Very respectfully,

JNO. WANAMAKER,
Postmaster-General.

Hon. S. PASCO,
United States Senate.

POST-OFFICE DEPARTMENT, *June 3, 1854.*

SIR: Finding the present Post-Office building entirely too small for the business of the Department, I requested the Architect of Public Buildings to prepare plans and estimates for extending it. These plans I herewith submit to you, together with a report and estimate from Mr. Walter, and respectfully request you to bring

the subject before the committee, with a view to such action of Congress in reference to it as may be deemed most expedient.

I am of the opinion that these plans, if properly carried out, will afford ample and convenient accommodations, not only for the Post-Office Department, but also for the city post-office, which is now kept in a very frail and unsafe building adjoining the General Post-Office.

I am, very respectfully, your obedient servant,

JAMES CAMPBELL,
Postmaster-General.

Hon. JAMES A. BAYARD.

Chairman Committee on Public Buildings, United States Senate.

The records of the Interior Department furnish the following letters, which further relate to the employment of Mr. Walter by the Government in connection with these matters. Copies of them have been furnished to the committee by the Secretary. His original employment as architect to execute the plan adopted for the extension of the Capitol was brought about by the following letter of appointment of President Fillmore and the letter of Secretary Stuart fixing the salary:

EXECUTIVE MANSION, *Washington, June 11, 1851.*

SIR: You are hereby appointed architect to execute the plan adopted for the extension of the Capitol, as authorized by the act of Congress approved the 30th of September, 1850, making appropriations for the civil and diplomatic expenses of the Government for the fiscal year ending 30th of June, 1851. Your compensation will be determined hereafter.

MILLARD FILLMORE.

Mr. THOMAS U. WALTER,
Present.

DEPARTMENT OF THE INTERIOR, *October 9, 1851.*

SIR: I have to inform you that your salary, as architect of the extension of the Capitol, has been fixed by the President of the United States at \$4,500 per annum, to commence from date of your appointment.

I am, sir, very respectfully, your obedient servant,

ALEX. H. H. STUART,
Secretary.

THOMAS U. WALTER, Esq.,
Architect, etc., Washington, D. C.

The following letters afford proof of other work entrusted to him by the Department of the Interior:

DEPARTMENT OF THE INTERIOR, *July 29, 1851.*

SIR: I inclose a copy of a letter addressed to Mr. Robert Mills, by which you will perceive that the superintendence of the erection of wings to the Patent Office building is confided to you.

You will receive from Mr. Mills all contracts, papers, etc., relating to the work, giving him duplicate receipts therefor; one of which should be forwarded to this Department.

I am, etc.,

A. H. H. STUART,
Secretary.

Mr. THOMAS U. WALTER,
Present.

DEPARTMENT OF THE INTERIOR,
Washington, July 29, 1851.

SIR: Upon consultation with the President, it has been concluded to put the future operations in regard to the erection of the additions to the Patent Office under the supervision and control of Mr. Walter. Your services in the character of superintendent will, therefore, be no longer required, and you are requested to deliver to Mr. W. all the papers, plans, and other property of the U. S. connected with that work.

I am, etc.,

A. H. H. STUART,
Secretary.

Mr. ROBERT MILLS,
Present.

ARCHITECT'S OFFICE, U. S. CAPITOL,
Washington, D. C., July 31, 1851.

SIR: Your letter of the 29th instant, appointing me superintendent of the erection of the wings to the Patent Office building is received, and I hereby accept the appointment.

I shall proceed to-day to receive from Mr. Mills "all contracts, papers, etc., relating to the work," giving him duplicate receipts therefor, one of which I shall request him to transmit to you, in compliance with your instructions.

I am, sir, with great respect, your obedient servant,

THOS. U. WALTER,
Architect.

Hon. ALEX. H. H. STUART,
Secretary of the Interior.

DEPARTMENT OF THE INTERIOR, March 30, 1852.

SIR: You are charged with the superintendence of the repairs of the Congressional Library and with the disbursement of the funds appropriated for that purpose, and you are requested to proceed with the work as rapidly as practicable.

I am, sir, very respectfully, your obedient servant,

ALEX. H. H. STUART,
Secretary.

THOS. U. WALTER, Esq.,
Architect, etc., Washington, D. C.

DEPARTMENT OF THE INTERIOR, April 23, 1852.

SIR: By direction of the President you are hereby instructed to enter into bonds, in the penalty of \$20,000, for the faithful discharge of the duties under the appointment from this Department as disbursing agent and superintendent of the work to be executed in repairing the Congressional Library-room in the U. S. Capitol.

I am, sir, very respectfully, your obedient servant,

WM. A. GRAHAM,
Acting Secretary.

THOMAS U. WALTER, Esq.,
Architect, etc., Washington, D. C.

The following extract from the civil and diplomatic appropriation bill approved March 3, 1855, relates to his plans for the continuation of the Treasury building.

"For the continuation of the Treasury building, three hundred thousand dollars, to be expended under the direction of the President of the United States, according to the plan proposed by Thomas U. Walter, architect, and approved of by the Committees of the Senate and House of Representatives on Buildings and Grounds, at the last session of Congress."

The following from the same bill relates to his plan for the continuation of the Post-Office building:

"For the continuation of the Post-Office building, three hundred thousand dollars, to be expended under the direction of the President of the United States, according to the plan submitted by Thomas U. Walter, architect, to the Postmaster-General, and approved by the committees of the Senate and House of Representatives, at the present session of Congress."

It is claimed that the construction of the present dome of the Capitol was entirely independent of the Capitol extension. It was provided for in the civil and diplomatic appropriation bill, approved March 3, 1855, from which the following extract is taken:

"For removing the present dome, over the central portion of the Capitol, and the construction of one upon the plan as designed by Thomas U. Walter, architect of the Capitol extension, under the direction of the President of the United States, one hundred thousand dollars."

This work was all performed during the fourteen years (from June 11, 1851, to July 6, 1865) that Mr. Walter filled the position to which he was appointed by President Fillmore as architect to execute the plan for the extension of the Capitol, which had been accepted by the Congress the preceding year. There is no evidence whatever before the committee of any actual contract between Mr. Walter and the Government for any compensation in addition to his regular salary attached to that position. Mr. Walter did not, in his memorial, allege any, and Mr. Clark, the

present Architect of the Capitol, whose affidavit in relation to the claim, made at the request of the chairman of the Committee on Claims of the House of Representatives of the Fiftieth Congress, appears in the record, says on this subject:

"I have an impression that the Postmaster-General, Hon. James Campbell, told me that Mr. Walter should be paid for his services in connection with that building."

No statement more positive than this bearing upon this point appears in the record, excepting those made by Mr. Walter to other parties, which appear further on in this report. The Congress and the heads of Departments seem to have acted as if Mr. Walter's whole time and services belonged to the Government, and as if they had a right to make use of them in connection with any of these great public works.

In a letter from Hon. J. P. Usher, then Secretary of the Interior, dated January 22, 1864, to Hon. Solomon Foote, chairman of the Senate Committee on Public Buildings and Grounds, giving a report of the progress of some of these works, he says:

"In this connection I may also state that since the 1st of March, 1863, Mr. Walter, without additional compensation, has performed the duties of architect of the Patent Office building, for which a salary of \$2,000 per annum had for some time previously been paid."

It is a noticeable fact that during the fourteen years of his employment he made no demand upon the Government beyond his salary, and presented no claim for compensation for any additional work outside of the duties of his first appointment. And no such claim was presented in any formal shape until seven years after he resigned his position as architect.

But Mr. Walter states positively that he discharged these duties with the full expectation that he would be entitled to receive a suitable compensation therefor. He states in his memorial, addressed to Congress in 1882, that he was informed at the time he entered upon his duties as "superintendent of the erection of the wings of the Patent Office building" that a salary of \$1,500 per annum was attached to the position. But no similar statement is made as to any of the other additional work.

In 1872 he prepared his memorial to the Senate and House of Representatives, and the recapitulation of the sums claimed is as follows:

Recapitulation.

Wings of Patent Office building	\$10,500
Congressional Library	7,410
Extension of Treasury building	10,000
Extension of Post-Office building	36,450
Dome on old Capitol	47,500
Marine barracks at Pensacola, Fla	500
Marine barracks at Brooklyn, N. Y	1,000
Total	113,360

He enumerated other services for which he stated that he made no charge, as appears in the closing words of his memorial, which are as follows:

"In addition to the foregoing works, Mr. Walter furnished the designs and detail drawings of the Government Hospital for the Insane, but for this service he makes no charge.

"He also designed, by order of the War Department, extensive buildings for arsenal, workshops, etc., at Harpers Ferry, Va. He remodeled the interior of the Executive Mansion, making extensive alterations throughout the building. He made designs, detail drawings, and specifications for the wings of the Congressional Library, and, in short, he attended to all the requirements of the Government in the line of his profession, freely and without charge, except as far as it relates to the leading works hereinbefore specified. For his services in connection with these he believes himself to be justly entitled to an equitable compensation."

But notwithstanding the apparent neglect of his own pecuniary interests it is manifest that he expected to receive a further compensation than his salary when he took time from his great work and his tremendous public responsibilities to think of his private affairs. His friend, Mr. Clark, the Architect of the Capitol, says that in their conversations while employed together he used to say that the heads of Departments, for which he performed services, said he would be paid, but would have to look to Congress for his reward. His widow says that he expected to draw the extra amounts all at once. He no doubt looked forward to this as a provision for his old age and for his family in case he was taken from them. She speaks of like conversations with her, in which he spoke of assurances from heads of Departments, such as he sometimes mentioned to Mr. Clark. Much of this work was necessarily done after office hours, when his time was his own. He labored often far into the night upon the work in which he seems to have been wholly absorbed. His health suffered, his constitution was broken down by these fourteen years of toil

and responsibility, care and anxiety. His widow states that they went back to Philadelphia, their former home, after his resignation, and that he was unable to resume full work at his profession until 1874.

It is stated by Mr. Clark that he went back to Washington in 1867 to try to secure this additional compensation, but no formal presentation of the matter was made to the Congress, whence he was told his relief must come, until 1872. From that time, he continued his efforts here until October 30, 1877, when he died. The usual delays attended the case and no relief was obtained. Since his death his widow and executrix has continued the efforts commenced by her husband in his lifetime. The late Mr. S. J. Randall introduced a bill in her behalf in the House of Representatives of the Fiftieth Congress. It was referred to the Committee on Claims and a favorable report followed, the same as has already been mentioned.

It is not deemed necessary to attempt, in this report, to speak of the success of Mr. Walter's efforts as an architect. His works speak for themselves. They are worthy of the great country whose seat of Government they adorn. They are a monument to his industry, his skill, his genius, which will be the admiration of future generations of his countrymen.

The committee has only to deal with the business aspect of the case, and are restricted to the contracts and agreements between the Government and Mr. Walter and such rights and equities as have resulted from them. It is unfortunate that the heads of Departments and the late claimant left this whole subject to doubt and inference. If it was expected that the extra duties were to be discharged without additional compensation, it should have been so stated when the additional appointments and assignments to duty were made. It is difficult now to place a money estimate upon the value of these services when the person rendering them failed to do so at the time. The value he fixed afterwards in his memorial was nearly double the amount he contracted to serve the Government for as architect, a position whose duties were sufficient for the ordinary working time of a man of ordinary industry and ability. It is manifest that this is largely in excess of any equitable claim he can have if measured by his own contract.

The committee, after carefully considering all the facts and circumstances of the case, are in favor of granting some relief. They are strengthened in this view by a letter from Hon. A. H. H. Stuart, who was Secretary of the Interior under President Fillmore, and under whose direction much of this work was done. The following extract is taken from this letter:

STAUNTON, VA., *March 10, 1886.*

MY DEAR SIR: I have had the honor to receive your letter of 25th ultimo, in which you submit to me some inquiries in regard to certain claims which Mr. Thomas U. Walter, architect, has presented against the Government of the United States for professional services.

Many years have elapsed since the date of the transaction referred to, and of course I can not pretend to retain accurate recollections of details. But in regard to some of the more prominent facts I think my memory may be relied on.

In 1851 it became my duty as Secretary of the Interior to have a general supervision of the erection of the new wings of the Capitol, for which Congress made provision, according to such plans as the President should approve.

The President and members of his Cabinet took great interest in the subject. Distinguished architects were invited to present competing plans and specifications of the work. This was done, and after a mature consideration of the whole subject the plans proposed by Mr. Walter were approved and adopted, and he was appointed supervising architect, at the very paltry salary (in view of the magnitude of the work) of \$4,500 per annum.

This, I feel very sure, was a singular and separate contract, relating exclusively to the two wings and the corridors connecting them with the old building.

At that time no provisions had been made for the erection of the new central dome, nor was it in immediate contemplation. It is my impression that it was an after-thought. The grandeur of the new wings and their new domes rendered the unsightly and insignificant "old central dome" an offense to the good taste of the country, and made the erection of the present splendid and graceful new dome a necessity.

I think it was in the winter of 1851 that the Congressional Library was burned. This was some months after Mr. Walter had been placed in charge of the erection of the new wings to the Capitol. He was employed to plan and supervise the restoration of the Library. But this was under an arrangement entirely distinct from his original contract.

[After commenting at length upon Mr. Walter's service on the extension of the wings of the Patent Office, Mr. Stuart continues:]

I can not undertake to say by whom Mr. Walter was paid for his services in this particular matter, or how much he received. But I am very sure that these services were in no wise connected with his original contract on the Capitol extension.

The erection of the new central dome of the Capitol was not commenced until some years after I left the public service, and was in no wise connected with his original contracts.

I hope I will be excused for saying that I was most favorably impressed with the whole conduct and bearing of Mr. Walter during my entire intercourse with him. I regarded him not only as a man of genius and great attainments in his profession, but as a gentleman of thorough integrity. He was ambitious of distinction and anxious to connect his name with these great national improvements, and I am persuaded that he looked more to fame than to money in his contracts. His great works have reflected honor on our country, and it seems to me they ought not to be settled for in a narrow and niggardly spirit.

Respectfully, yours, etc.,

ALEX. H. H. STUART.

Hon. WM. M. SPRINGER,
Chairman, etc.

The committee in seeking information upon this subject addressed a letter to Gen. M. C. Meigs, whose long connection with the public works of the Capital had given him abundant opportunities to become acquainted with the circumstances of the case. His reply corroborates much that had been learned from other sources and strengthens the claim for additional compensation. This statement gives a succinct statement of the facts with his views and the committee include it in their report:

WASHINGTON, D. C., July 2, 1890.

DEAR SIR: In reply to your letter of 28th June, in relation to Mr. Thomas U. Walter's service to the United States, as architect of the extension of the Capitol, and in designing other public buildings of the United States, I have the honor to report:

First. Mr. Walter in a competition instituted by Congress was the author of the preferred design and was appointed architect of the Capitol extension with an annual salary of \$4,500 to erect the building according to that design, with such modifications in final execution as are generally found on further and detailed study to be judicious and advisable.

His commission will be found printed in the public documents of the day. It was signed by the Hon. Alexander Stuart, then Secretary of the Interior Department, under which Department the building was begun and the great contracts made, and the foundations built up to the level of the basement floor of both wings.

A new administration then came into power. There had been much criticism, mostly, I believe, arising in the dissatisfaction of disappointed bidders for employment and for furnishing materials, which resulted in appointment of committees of investigation, notably Borland's report and McNair's report, which can be found in Pub. Doc. reports to Congress, about the beginning of the year 1853.

Mr. Walter's appointment, as I recollect its terms, was as architect of the Capitol extension; no more, no less. This letter of appointment fixed his compensation, and for that work only, as I remember it.

I was about this time detailed by the War Department, to whose care the work had been transferred by the President, to take charge of the whole business, to report on the fitness of the plans, the ability of the foundations, as then in existence to bear for all time the burden to be imposed upon them, etc.

I retained, by consent of the Secretary of War, Mr. Walter as architect. Some changes I required him to make in the plans, particularly of the location and plans of the halls for the Senate and for the House of Representatives. These were made and the work went on without further difficulty.

Second. During the time I remained in charge, it was known to me that Mr. Walter prepared designs for the extension around the square bounded by F street, Seventh street, and G street northwest, the then existing Patent Office, which then occupied only the space on F street. The west front, however, had been designed by Mr. Walter, and begun, before I took charge of the Capitol extension and its office. The other three fronts were designed after I took charge. The work was executed under Mr. Walter's direction through Mr. E. Clark, who was his pupil and assistant in architecture.

Third. Mr. Walter also, on request of proper authority, made designs for other public buildings, viz:

A.—The Government Insane Asylum on the Eastern Branch. This, I think, at request of the Secretary of the Interior.

B.—Marine barracks, subsequently erected by the Navy Department at Pensacola.

C.—The extension and completion of the General Post-Office Department building, south of the Patent Office. Three fronts, east, west, and north, have been built from his designs.

D.—At the request of the Congressional Committees on Public Buildings, who freely called upon him for his artistic and experienced knowledge of architecture and building, he made plans, elevations, and designs for the extension and completion of the Treasury building, then consisting only of the long sandstone colonnade on Fifteenth street. I, myself, in the last hours of a session of Congress, carried the plans of Mr. Walter to the committee rooms, and they were signed by the chairmen of the committees in order to verify and identify them. Perhaps some other members of the committees signed them also—my memory fails on this point of detail. Appropriation was made for the Treasury building, and it was built on the designs of Mr. Walter.

E.—He made also at that session a design for a War Department building, to occupy the space since built on, but on a different design made years afterward by Mr. Mullet. The appropriation to begin the extension of the Treasury passed at that session; that for the War Department failed then to become a law. The design of Mr. Walter, however, must be in existence. It was approved and verified, if I remember correctly, at the same time and by the same signatures as that for the Treasury.

F.—Mr. Walter also designed the new rooms for the Library of Congress, long and to this day occupied by this library. These, too, he built and completed. They were not under my jurisdiction or control.

G.—He also designed, and Congress by law adopted and approved his design for, an iron dome, which has been executed and which replaced a hemispherical wooden-framed dome, which had for many years crowned the old or center building of the Capitol.

All these designs of Mr. Walter were made, I believe, without compensation from the United States. All except the War Department design have been erected from his designs. They cost many millions of dollars, and are among the best architectural achievements of our country and of our age. None of them was covered by Mr. Walter's contract as architect of the extension of the Capitol, and I believe that the Government he served so well owes him and his heirs a debt which ought to be paid.

I think that in his annual reports and in mine, and in the laws making appropriations for the public buildings, and in the records of the Interior, the Treasury, the War, and the Navy Departments, all the facts herein stated can be verified.

I remain, respectfully, your obedient servant,

M. C. MEIGS,

Quartermaster-General U. S. Army, retired, Brevet Major-General.

Hon. S. PASCO,
United States Senate.

Whether a sufficient contract to establish a legal demand against the Government in behalf of the late Mr. Walter existed or not, the only way of obtaining relief under the circumstances of the present case is through the action of Congress, and some of the members of the committee, without passing upon this feature of the case, rest their support of the claim upon the great public services rendered to the country by his successful work as an architect and the inadequacy of the compensation he received, when it is considered that the duties not included in his original employment were largely discharged after office hours.

The bill provides for an appropriation of \$30,000 in settlement of the claim. This committee in the Fifty-first Congress recommended \$25,000, which was the amount formerly fixed by the Committee on Claims of the House of Representatives. A majority of the present committee think that a fair remuneration will be \$1,000 a year in addition to the \$4,500 he received during the fourteen years of his services.

The committee therefore recommend that the bill be amended by striking out "thirty," in the seventh line, and inserting "fourteen" in lieu thereof; and when thus amended they recommend that the bill do pass.

The committee favor the amendment of the bill suggested in the former report, making the sum appropriated \$14,000, and when the bill is thus amended recommend that it do pass.

SUFFERERS BY BURNING OF TUG MYSTIC.

FEBRUARY 13, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WOODARD, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 1137.]

The Committee on Claims, to whom was referred the bill (H. R. 1137) for the relief of certain parties, sufferers by the burning of the tug *Mystic* while in Government employ, having had the same under consideration, beg leave to report the same, with the recommendation that it pass.

The letter from the Secretary of War, Ex. Doc. No. 129, Fifty-third Congress, second session, fully sets forth the facts, and your committee adopt the same and make it a part of this report.

[House Ex. Doc. No. 129, Fifty-third Congress, second session.]

WAR DEPARTMENT,
Washington, D. C., February 26, 1894.

SIR: I have the honor to transmit herewith a letter addressed to the Chief of Engineers on February 16, instant, by Col. O. M. Poe, Corps of Engineers, reporting the burning of the tug *Mystic*, employed on the resurvey of St. Marys River, Michigan, in Taquamenon Bay, St. Marys River, on September 27, 1893.

Accompanying the letter is the affidavit of each of the working party giving an itemized statement of the private property lost by each and its value.

Very respectfully,

DANIEL S. LAMONT, *Secretary of War.*

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

UNITED STATES ENGINEER OFFICE,
Detroit, Mich., February 16, 1894.

SIR: During a portion of last season the tug *Mystic* was employed by the United States in connection with the resurvey of St. Marys River, Michigan. The vessel was used to transport and quarter a small party under charge of Assistant Engineer Glen E. Balch, engaged in erecting triangulation stations. On September 27, 1893, the tug was burned in Taquamenon Bay, St. Marys River, while the working party, except the cook, was ashore, engaged upon their proper duties, and all their private property on board at the time was lost through no fault or negligence on their part. The individuals of the party are all in such circumstances that the loss, though comparatively small individually, is nevertheless a serious one to them. I submit herewith an affidavit in each case giving, so far as practicable, an itemized statement of the articles lost, and their value; also copy of a letter from First Lieut. Charles S. Riché, Corps of Engineers, United States Army, in regard to the matter.

The following individuals composed the party, and opposite each name is placed the amount of loss sustained, viz:

Glen E. Balch, assistant engineer.....	\$261.90
John C. Turner, carpenter.....	55.60
Rebecca Day, cook.....	94.00
P. C. Bye, laborer.....	56.75
Thomas J. Bye, carpenter.....	6.15
Robert R. Cook, laborer.....	19.90
Edward McMorris, laborer.....	29.15
Total.....	523.45

It may be remarked that John C. Turner was borne on the pay roll for September, 1893, as J. C. Turner; P. C. Bye, as Peter Bye, and Robert R. Cook, as R. R. Cook, but they are the same persons, respectively.

In view of all the circumstances, I have the honor to request that these claims be submitted to Congress, with a recommendation that an act be passed granting the several individuals compensation in the respective amounts stated, and that an appropriation be made for their payment.

Very respectfully, your obedient servant,

O. M. POE,

Col., Corps of Engineers, Bvt. Brig. Gen., U. S. A.

Brig. Gen. THOMAS L. CASEY,

Chief of Engineers, United States Army, Washington, D. C.

[First indorsement.]

OFFICE CHIEF OF ENGINEERS, UNITED STATES ARMY,

February 23, 1894.

Respectfully submitted to the Secretary of War, recommending that the papers be submitted to Congress.

THOS. LINCOLN CASEY,
Brig. Gen., Chief of Engineers.

UNITED STATES ENGINEER OFFICE,

Sault Ste. Marie, Mich, February 10, 1894.

SIR: I have the honor to forward herewith a letter dated January 27, 1894, from Assistant Engineer Glen E. Balch submitting affidavits in duplicate for private property lost by himself and other members of the party engaged in constructing stations, by the burning of the tug *Mystic* in Taquamenon Bay on September 27, 1893, to wit:

Glen E. Balch, private property valued at.....	\$261.90
John C. Turner, private property valued at.....	55.60
Rebecca Day, private property valued at.....	94.00
P. C. Bye, private property valued at.....	56.75
Thomas J. Bye, private property valued at.....	6.15
Robert R. Cook, private property valued at.....	19.90
Edward McMorris, private property valued at.....	29.15
Total.....	523.45

The tug *Mystic* was hired by the Government at the time, and all of the above-named persons were in the employ of the Government and had their private property on board of the tug at the time, as that was practically their only place to keep it. Almost all of this private property consisted in tools, clothing, and bedding, which the various members of the party had to have with them. The burning of the tug was in no way the fault of the above-named persons, nor of any other employees of the United States, and it is a great hardship to these persons to suffer such a loss through no act or fault of their own.

If it be possible, I would respectfully recommend that relief be asked of Congress (through the proper channels) to the end that the persons above named may be recompensed by the payment of the amounts set opposite their respective names for the losses which they sustained.

Affidavits concerning the loss of the tug *Mystic* have already been forwarded to you.

Very respectfully, your obedient servant,

CHARLES S. RICHE,
First Lieutenant, Engineers.

Col. O. M. POE,

Corps of Engineers, United States Army.

UNITED STATES ENGINEER OFFICE,
Sault Ste. Marie, Mich., January 27, 1894.

SIR: I have the honor to submit to you statements in duplicate, and sworn to before notary publics, of the private property lost by fire in the burning of the tug *Mystic* in Taquamenon Bay, September 27, 1893.

The statements inclosed are my own and those of the following members of my party: J. C. Turner, T. J. Bye, Peter Bye, Rebecca Day, R. R. Cook, and Edward McMorris. The other members did not care to submit theirs.

Inasmuch as this loss occurred while we were in the employ of the United States, and following our instruction, and through no fault or negligence of our own, we respectfully ask to be reimbursed for our losses.

The entire party except the cook, Rebecca Day, was ashore at the time the tug burned, as we were building stations at two points the same day, and we were too short handed to leave anyone on board except the tug's own crew, who managed to save nothing that was on board except their lives and the boat they got off in.

Very respectfully, your obedient servant,

GLEN E. BALCH, *Assistant Engineer.*

Mr. CHARLES S. RICHE,

First Lieutenant, Corps of Engineers, U. S. A., Sault Ste. Marie, Mich.

Private property of Glen E. Balch lost with Mystic.

I, Glen E. Balch, assistant engineer, do solemnly swear that the following articles of my private property were destroyed by fire in the destruction of the tug *Mystic* in Taquamenon Bay, Lake Superior, on September 27, 1893, while I was in the Government employ, being engaged at the time with my party in building triangulation stations for the resurvey of the St. Marys River. The destruction was rapid and complete, nothing being saved that was on board at the time.

GLEN E. BALCH, *Assistant Engineer.*

Articles.	Condition.	Market price.	Estimated value.
1 steel tape, Chesterman, 66 feet	New	\$9.00	\$9.00
1 set bow instruments (3 pieces, Swiss)	do	11.25	11.25
2 pens, Swiss, right line	Good	3.50	3.00
1 scale, triangular boxwood, 18 inches	do	2.50	2.50
2 triangles, rubber, 6 inches	do	.35	.35
12 inches	do	.90	.90
1 fountain pen	do	3.00	2.50
1 Tautwine engineering	New	5.00	5.00
1 Henck engineering	Worn	2.50	2.00
1 Haswell engineering	Good	4.00	4.00
1 shotgun, double-barrel, Skinner	do	45.00	33.00
1 revolver, .32-caliber, S. & W	New	10.75	10.75
2 trowling hooks, with lines	Good	4.25	3.75
2 plate holders, 5 by 7, kodak	do	2.50	2.50
1½ dozen plates, Eagle, 5 by 7	Fresh	1.65	1.65
1 focusing cloth	Worn	1.75	1.25
1 suit of clothes	Good	33.00	30.00
Do	Well worn	22.00	15.00
Do	New	12.00	12.00
1 overcoat	Good	30.00	25.00
1 coat, storm	do	18.00	18.00
1 sweater, wool	do	5.00	4.50
2 flannel overshirts	do	6.00	5.50
3 shirts, colored, light	Worn	6.00	4.50
3 suits winter underwear	do	15.00	10.50
4 suits summer underwear	do	8.00	4.00
6 towels	New	3.00	3.00
1 hat, felt	Worn	2.50	1.50
1 hammock	New	2.75	2.75
2 blankets, woolen	Good	12.00	12.00
1 blanket, rubber	New	1.00	1.00
1 pillow, feather, with slip	Good	2.00	2.00
1 comfortable	do	1.50	1.00
1 pair lace boots, knee	do	6.00	5.00
1 pair shoes, corked soles	do	4.50	4.50
1 pair shoes, rubber soles	do	1.25	1.25
1 satchel, leather	do	7.00	5.50
Total			261.90

Subscribed and sworn to before me this 6th day of November, 1893.

AMOS J. MCCLUNG, *Notary Public.*

Statement of property lost by John C. Turner on tug Mystic, which burned on Lake Superior on the 27th day of September, A. D. 1893, while engaged by the United States Government on the lake survey.

1 tool box	\$10.00	1 apron	\$0.75
1 set of planes	7.00	2 screw-drivers	1.00
1 framing square	2.00	1 scratch awl and bits	1.00
1 drawknife	1.50	1 pair buckskin gloves	1.50
1 rip-saw	2.25	1 pair compasses	.40
1 try-square	1.00	1 hammer	1.25
1 bevel square	.50	2 mallets	1.50
1 saw-set	1.00	1 monkey wrench	1.50
1 spirit level	4.00	1 carpenter's rule	.50
1 set of chisels	3.50	2 cold chisels	.50
1 set of bits	4.00	1 lot of files	1.00
1 brace	2.00	1 tapeline	1.25
1 steel crowbar	1.00	1 chalk line and spool	.50
1 oilstone	2.00	1 oil can	.25
2 gauges	.80		
1 nail set	.15	Total	55.60

STATE OF MICHIGAN, *County of Chippewa, ss:*

John C. Turner, of the city of Sault Ste. Marie, in said county, being duly sworn, deposes and says that the items and values mentioned in the foregoing statement are true and correct; and that said property was burned and destroyed on the above date, while deponent was in the service of the U. S. Government on the lake survey.

JOHN C. TURNER.

Subscribed and sworn to before me, at the city of Sault Ste. Marie, this 12th day of October, A. D. 1893.

JAMES L. TURNER.

Notary Public, Chippewa County, Mich.

STATE OF MICHIGAN, *County of Chippewa, ss:*

Rebecca Day, being duly sworn, deposes and says she resides at Sault Ste. Marie, in said county, and that on the 27th day of September, 1893, she was employed as cook for the U. S. lake survey corps, under command of Lieut. C. S. Riché, engaged at or near Sault Ste. Marie, Mich., in the lake-coasts survey of the United States. At that time deponent was on the steam tug *Mystic*, which at that date took fire and burned to the water's edge, consuming all of the personal property mentioned in Exhibit A hereto attached, which is made a part of this affidavit, and that all the articles and property mentioned in said Exhibit A was the property of the deponent, and that it was entirely consumed and destroyed by fire at the time of the burning of said steam tug *Mystic*, and that each article and thing therein mentioned is well worth the sum or price charged therefor, and deponent asks to be reimbursed for said loss.

REBECCA DAY.

Subscribed and sworn to before me this 14th day of October, A. D. 1893.

[SEAL.]

A. STANLEY,

Notary Public, Chippewa County, Mich.

EXHIBIT A.

SAULT STE. MARIE, MICH., *October 12, 1893.*

List of articles destroyed by fire on tug Mystic on September 27, the same being the personal effects of Mrs. Rebecca Day, employed as cook for the U. S. lake survey party on board said boat.

1 black satin dress, \$20; 1 navy-blue dress, \$9	\$29.00
3 cotton dresses, \$5; underclothing, \$10	15.00
2 broaches, \$4; 1 pair shoes, \$3; 1 pair specks, \$4	11.00
1 pair pillows, \$2; 1 pair blankets, \$3; 2 quilts, \$4	9.00
1 cloak, \$15; 2 hats, \$5; 1 feather bed, \$10	30.00
	94.00

SAULT STE. MARIE, *October 12, 1893.**List of clothing lost by fire on September 27, 1893, on S. S. Mystic.*

1 blanket, \$3; 3 quilts, \$2.50.....	\$10.50
2 flannel shirts, \$2.25.....	4.50
2 pair socks, 50 cents; 1 hat, \$1.50.....	2.50
1 pair shoes, \$2; 1 razor, \$3.....	5.00
1 razor strap, 50 cents; 1 shaving brush, 50 cents.....	1.00
1 suit of underclothes.....	3.00
1 pair of mittens.....	.75
1 suit of clothes.....	15.00
1 overcoat, \$8; 1 second coat, \$4.....	12.00
1 cap, \$1; 1 valise, \$1.50.....	2.50
	56.75

P. C. BYE.

Peter C. Bye, of Sault Ste. Marie, Mich., being duly sworn, deposes and says that the items mentioned in the foregoing account were destroyed by fire on tug *Mystic* September 27, 1893, while deponent was in the service of the U. S. Government on the lake survey.

PETER C. BYE.

Subscribed and sworn to before me this 12th of October, 1893.

ANNA E. TURNER.
Notary Public, Chippewa County.

SAULT STE. MARIE, *October 12, 1893.**List of tools lost by fire on steamer Mystic, September 27, 1893.*

1 saw.....	\$1.00
1 plane.....	2.00
1 drawing knife.....	1.00
1 screw-driver.....	.40
1 square.....	1.00
1 monkey wrench.....	.75
Total.....	6.15

STATE OF MICHIGAN, *Chippewa County, ss:*

Thomas J. Bye, of Sault Ste. Marie, in county of Chippewa, State of Michigan, being duly sworn, deposes and says that the items mentioned in the foregoing account were destroyed by fire on the tug *Mystic*, September 27, 1893, while deponent was in the service of the United States Government on the lake survey.

THOMAS J. BYE.

Subscribed and sworn to before me this 12th day of October, 1893.

ANNA E. TURNER,
Notary Public, Chippewa County, Mich.

STATE OF MICHIGAN, *County of Chippewa, ss:*

Robert R. Cook, of the city of Sault Ste. Marie, being duly sworn, deposes and says that he has been in the employ of the United States Government in the lake survey under the supervision of Lieut. C. S. Riché, of the United States Army, on the river St. Mary and its connecting waters, ever since the 1st day of May, A. D. 1893, up to and including the 12th day of October, 1893.

Deponent further says that on the 27th day of September, A. D. 1893, while engaged in his duties pertaining to said survey, under the command and directions of said Lieut. C. S. Riché, and then and there being at Taquemenon Bay, in the State of Michigan, where he had been ordered together with other members of the surveying party, to which point they had been conveyed by the steam tug *Mystic*, then and there used in connection with said survey, and deponent having on board his wearing apparel and other personal property below mentioned used by him in his work as a member of said surveying party, the said steam tug *Mystic*, on said day, between the hours of 1 and 2 o'clock p. m., caught fire and was burned to the water's edge.

Deponent further says that the articles below mentioned and used by him were totally consumed by said fire, and that the said property consisted of:

1 pair pants, valued at	\$6.00
2 shirts, valued at	1.00
3 blankets, valued at	7.50
1 rubber blanket, valued at	1.25
1 pair gloves, valued at	.75
1 pillow, valued at	1.50
1 pair overalls, valued at	.75
1 satchel, valued at	1.15

All of the value of 19.90

And deponent further says that no part of the above-mentioned property was saved or rescued from said fire, same being a total loss, and that each and every article was well worth the sum above mentioned, and deponent asks to be reimbursed for loss of same, same being lost while in the employ of the United States Government and used in connection with his work as such employé of the United States Government at that time.

ROBERT R. COOK.

Subscribed and sworn to before me this 13th day of October, A. D. 1893.

E. S. B. SUTTON,
Notary Public, Chippewa County, Mich.

SAULT STE. MARIE, MICH., September 27, 1893.

Lost on the tug Mystic on the 27th of September.

1 pair of pants	\$5.00
2 blankets, at \$4.50 each	9.00
1 pair of shoes	3.50
1 valise	2.75
1 rubber blanket	1.00
1 bedsack	1.00
1 feather pillow	1.75
2 shirts	1.50
2 undershirts	1.50
1 pair of drawers	1.00
1 pair of woolen stockings	.40
3 handkerchiefs	.75
Total	29.15

Edward McMorris, of Sault Ste. Marie, Mich., being duly sworn deposes and says that the items mentioned in the foregoing account were destroyed by fire on tug *Mystic* September 27, 1893, while deponent was in the service of the United States Government on the lake survey.

EDWARD MCMORRIS.

Subscribed and sworn to before me this 12th day of October, 1893.

ANNA E. TURNER,
Notary Public, Chippewa County, Mich.

EXPENSES INCURRED BY NEBRASKA IN A RAID BY SIOUX INDIANS.

FEBRUARY 13, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DENNY, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 489.]

The Committee on Claims, to whom was referred the bill H. R. 489, have carefully considered the same, and report it back to the House with the recommendation that it do pass.

This bill passed the Senate in the Fifty-second Congress, and received a favorable report from the Committee on Claims in the House of Representatives, but no further action thereon was had.

In the Fifty-third Congress it again passed the Senate, and was again favorably reported by the Committee on Claims of this House.

By unanimous consent the bill passed the House with amendments providing for an auditing of the claim instead of payment. The Senate nonconcurring and no further action was had in the House.

No question has ever been made on the facts. The basis of the claim is a matter of common history, and that it is meritorious does not admit of the least doubt.

Your committee adopt the Senate report on this bill made in the Fifty-second Congress, and which has been adopted by each successive committee taking action thereon, as follows:

The Sioux Reservation, with its 18,000 square miles, occupied by about 22,000 Sioux Indians, is located in great part in South Dakota, along the northern border of Nebraska, and in part in the last-named State. Brave and warlike, and retaining much of their original savagery, they are a foe to be feared, and their outbreak or threat of war causes dreadful anticipation among all settlers in their vicinity. The events of the winter of 1890-91 are too notorious and of too recent a date to need more than the faintest reference to them. Trouble threatened during all of the summer and fall of 1890, and in November was so imminent and a threat of such magnitude that, with General Miles in command, a large body of United States troops was placed within striking distance of the hostile Indians.

The whole border was greatly alarmed and many settlers fled from their farms, taking refuge in the towns in northwestern Nebraska. Indeed, such action was recommended by the officers of the Government, and the War Department distributed arms among the frontiersmen for their better protection. The latter part of December, 1890, after the battle of Wounded Knee and the retreat of about 4,000 hostile Indians to the Bad Lands, along White River, about 15 miles from the Nebraska line, a general Indian war, involving all the tribes of the powerful Sioux Nation, seemed unavoidable, and danger to life and property was great. On January 2, 1891, the governor of Nebraska ordered the First Brigade of the Nebraska National Guard to the frontier to cooperate with the United States troops under General Miles. The First and Second regiments responded promptly and under the command of Gen. L. W. Colby took positions as indicated in the following plan.

These troops were moved by rail from different parts of the State, and Company A, light artillery, and Troop A, of cavalry, were placed and held in readiness to move. The headquarters of the brigade were established at Rushville, Nebr., and

the danger was threatening for a distance 150 miles east and west and for 30 miles north and south. Hundreds of settlers had fled from their homes, leaving their stock and property uncared for. At Chadron alone there were 130 families of settlers gathered in from the neighborhood, dependent upon the public for shelter and food, and much the same condition obtained in all the frontier towns. General Colby established a line of fortified posts or camps north of the line of towns on the Elkhorn Valley Railroad, with a reserve force at each important town.

The appearance of the State troops gave encouragement and confidence to the people, and the National Guard was a valuable adjunct to the troops of the Government stationed on the Indian reservation. General Miles approved of the disposition of the State troops. Many of the settlers returned to their homes. Strict military discipline was maintained in all the camps; and the National Guard of Nebraska won additional credit by prompt, cheerful, and able performance of their duties. On January 12, 1891, General Miles communicated with General Colby that the Indians showed every disposition to comply with the orders of the authorities. He said: "I feel that the State troops can now be withdrawn with safety, and desire, through you, to express to them my thanks for the confidence they have given your people in their isolated homes."

On January 13, Gen. Victor Vifquain, adjutant-general of Nebraska, wired General Colby:

"Your command will remain at the front until the lives and property of citizens are perfectly secured. Be more vigilant than ever; advise me daily. You will withdraw your command when everything is safe, not before."

On January 14, with the approval of General Miles, General Colby moved the troops to their homes. The campaign was made in the depth of winter, in a country affording the severest of weather, and officers and soldiers vied with each other in the performance of their duty.

The following letter, lately received from the adjutant-general of Nebraska, is self-explanatory:

STATE OF NEBRASKA, OFFICE OF ADJUTANT-GENERAL,
Lincoln, March 5, 1892.

DEAR SENATOR: I mail you this day the report of the Indian campaign of 1890-91, as submitted to the legislature, duly certified to by the governor. The legislature loaned the money, so to speak, until the Federal Government should refund the same. I call your attention to pages 17 and 19 for dispatches of General Miles, especially page 17, the last sentence of which commences: "I feel that the State troops can now be withdrawn with safety, etc." This shows that the State troops were needed; that they did not go to a picnic in midwinter. The truth is that the position occupied by the Nebraska National Guard cut off the last chance for the escape of the Indians west of the Black Hills.

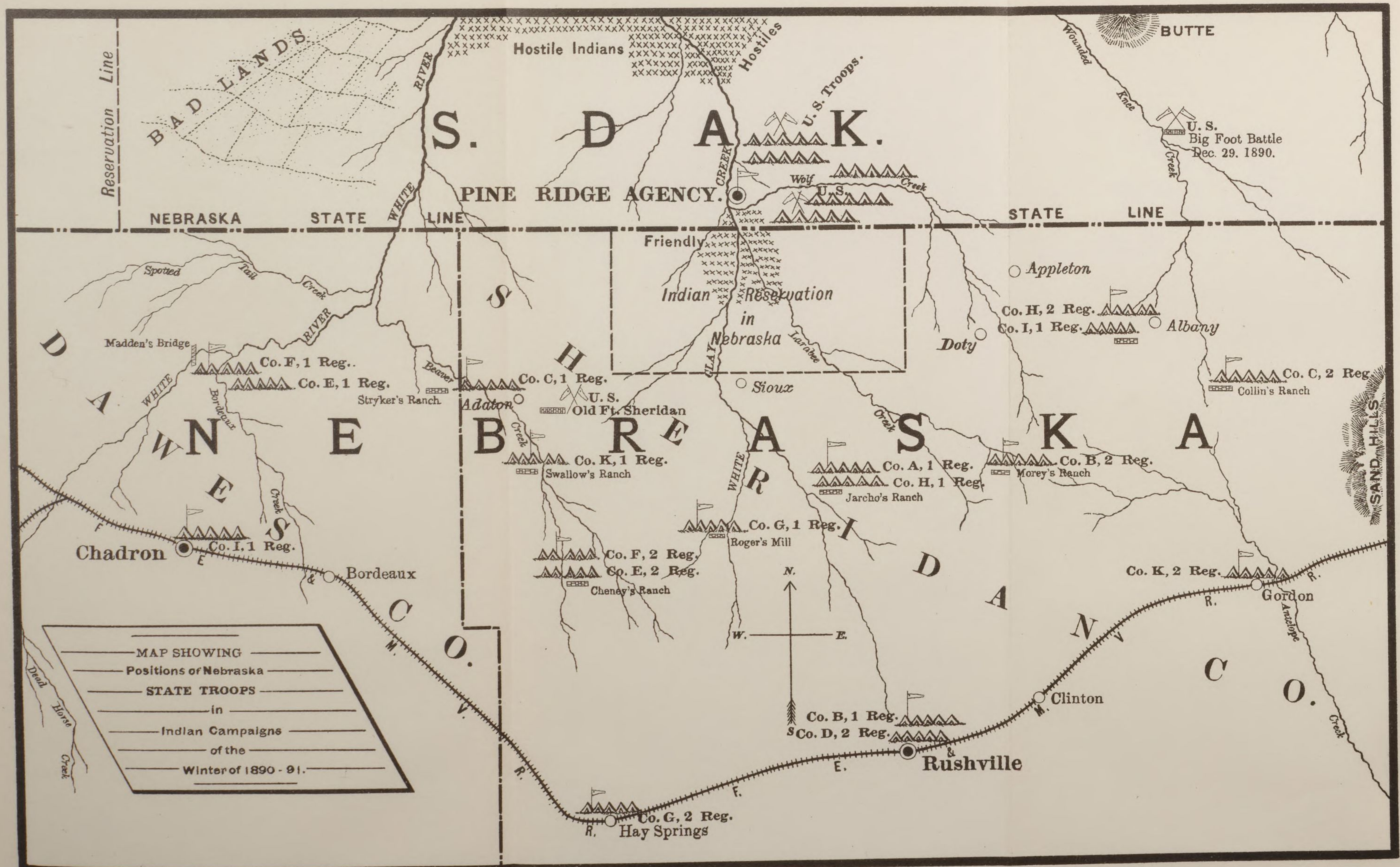
The legislature appropriated \$37,200; I asked for \$40,000. They thought they knew better than I did and they were mistaken; it will certainly take \$42,000 to settle everything.

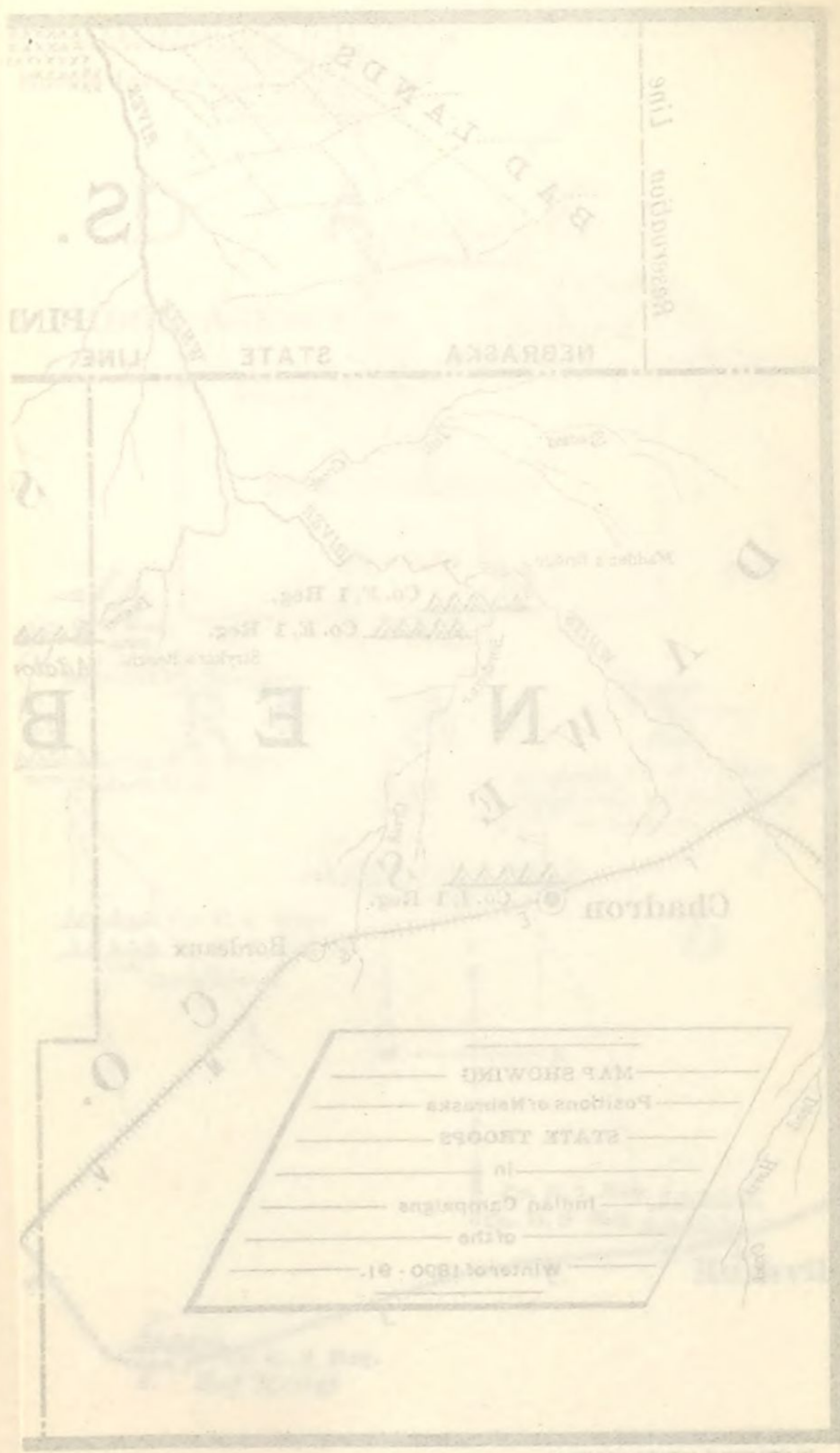
I do not think that you wish to be burdened with 1,000 different vouchers. The appropriation clause can read "\$42,000, or as much thereof as necessary, the same to be at the disposal of the Secretary of War, to be paid to the State after the vouchers have been submitted to that official," or words to that effect. We will then take steps to present the vouchers, which I am now compiling for the purpose. Do you not think this the best way?

I am, Senator, yours respectfully,

VICTOR VIFQUAIN,
Adjutant-General.

Senator CHAS. F. MANDERSON,
Washington, D. C





SARAH G. IVES.

FEBRUARY 13, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BAKER, of Kansas, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 4887.]

The Committee on Pensions, to whom was referred the bill (H. R. 4887) granting a pension to Sarah G. Ives, have considered the same, and report:

The claimant's deceased husband, Joseph C. Ives, was enrolled July 8, 1846, in Captain Morgan's company, Iowa infantry (Mexican war), and mustered out July 15, 1847. He reenlisted July 15, 1847, in the same company and regiment, and served until September 11, 1848, when honorably mustered out with the company.

The soldier was pensioned under the provisions of the Mexican war service-pension act of January 29, 1887, and after his death his widow, the beneficiary, filed a claim under the same law, but the claim was disallowed on the ground that the soldier did not serve in Mexico, on the coasts or frontier thereof, or enroute thereto. It seems that although the enlistment was for the Mexican war the regiment was assigned to post duty at Fort Atkinson, Iowa, and to field duty along the Upper Mississippi.

The service is fully shown by the records of the War Department, and the widow would have been pensioned under her application at the Pension Bureau, if the same rulings had prevailed at the time of the soldier's death as when his claim was allowed. His enlistment was clearly for service in Mexico, and his being retained for duty in the North was due to the exigencies of the situation at that time.

The claimant is now about 63 years old, and her identity as the widow of the soldier is fully established by the testimony filed at the Pension Office.

The passage of the bill is respectfully recommended.

ELIZABETH MOORE ENGLISH.

FEBRUARY 13, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. LOUDENSLAGER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 5345.]

The Committee on Pensions, to whom was referred the bill (H. R. 5345) granting a pension to Elizabeth Moore English, have considered the same and report:

A similar bill was before your committee at the second session of the Fifty-third Congress, and, being favorably reported, passed both Houses of Congress, but failed to reach the President until the press of business attending the closing hours of Congress made it impossible for him to consider it, and it failed to become a law.

The facts being fully set forth in the former report of your committee (Report No. 887, Fifty-third Congress), that report is adopted, and the bill is returned with the recommendation that it do pass, amended, however, by striking out the words "one hundred," in line 7, and substituting therefor the word "fifty;" also by striking out all after the word "month," in line 7.

[House Report No. 887, Fifty-third Congress, second session.]

The Committee on Pensions, to whom was referred the bill (H. R. 6585) granting a pension to Elizabeth Moore English, have considered the same and report as follows:

Mrs. English is the widow of Earl English, late rear-admiral, United States Navy, whose record is as follows:

Earl English, rear-admiral United States Navy. Born in Croswicks, Burlington County, N. J., February 18, 1824.

Appointed midshipman from his native State February 25, 1840.

Was attached to the line-of-battle ship *Columbus* until December of same year; was then ordered to the frigate *Constellation*, and made the cruise in her to the East Indies and around the world, arriving home May 8, 1844. Was attached to the *Princeton* on gun practice, 1844 and 1845. Was then ordered to the Naval Academy, where he graduated July, 1846. Was then ordered to the frigate *Independence*, and actively employed on the Pacific station, coast of Mexico and California, and participated in the capture of Mazatland and other important naval operations on the coast and in California. After the Mexican war he made a year's cruise in the *Vixen* to the West Indies. He then joined the *Southampton* for two years on special service in the Pacific and California. Returning, he joined the *Dolphin* in April, 1853, on deep-sea soundings between the United States and England.

While on this duty in the month of July, 1853, he was successful in bringing up the first soundings from the bottom of the ocean at the depth of 2,500 fathoms, the result of which was the laying of the first ocean cable between England and America in 1855. Having finished that duty he joined the Coast Survey, and was attached to the schooners *Crawford* and *Varina* for two years. He was then attached to the *Levant* and joined the East India squadron, and in November, 1856, in the capture and reduction of the barrier forts in the Canton River he was seriously wounded. Returning from that cruise he joined the *Wyoming* and went to the Pacific station, where he remained until the breaking out of the rebellion, when he returned east and took an active part until the close of the war, commanding the *Somerset* and *Sagamore* in the East Gulf squadron, capturing a large number of blockade runners, Cedar Keys, St. Marks, as well as destroying large numbers of salt manufactories on the coast.

Health failing him, he returned north for a short time. May, 1864, he took command of the *Wyalusing* in the sounds of North Carolina, where he remained until

the suppression of the rebellion. While in the sounds he assisted in the capture of the city of Plymouth and the rebel ram *Albemarle* and in numerous engagements up the Roanoke River and in various places in the sounds. The war ending, he was ordered to the navy-yard, New York, on ordnance duty, until, in November, 1866, he took command of the *Iroquois* and once more joined the East India station; was in Japan during the revolution in that country, and when the Tycoon was defeated by Satsuma at Osaka he and his official followers fled and took refuge on board of the *Iroquois*, for which kindness he received the thanks of the Tycoon. He returned home in November, 1870, and for three years was on special service with Admiral Porter and at navy-yard, Portsmouth, N. H. March, 1874, he took command of the *Congress* and joined the European station, and in the absence of Admiral Worden the duty of settling a difficulty between the pasha of Tripoli and the United States consul devolved upon him.

The Government was so well satisfied with the result that General Grant, then President of the United States, thanked him in person. Returning home in 1876, he was ordered as senior naval officer afloat at the Centennial, Philadelphia, where his sailors and marines were given a post of honor in the grand procession on the day of the opening.

July 31, 1876, was ordered as commandant of the Portsmouth (N. H.) Naval Station, where he remained until November, 1878, when he was appointed chief of the Bureau of Equipment and Recruiting, Navy Department. While in the Bureau he had a law passed authorizing the enlistment of 750 naval apprentices. At the same time Coasters Harbor Island, at Newport, R. I., was ceded by the State to the National Government as the headquarters for the training station, where it remains at the present time in a most flourishing condition.

He was instrumental in having President Arthur sign the order increasing the pay of the enlisted men and boys in the Navy. September 4, 1884, he resigned from the Bureau and took command of the European station. Returning home, he retired, according to law, February 25, 1886.

Promotions.—July 11, 1846, passed midshipman; March 1, 1855, master; September 16, 1855, lieutenant-commander; July 25, 1866, commander; September 28, 1872, captain; March 25, 1880, commodore; September 4, 1884, rear-admiral.

Admiral English died July 16, 1893, and his widow filed an application for pension December 19, 1893, but the same was disallowed April 26, 1894, on the ground that the disease from which he died (acute enteritis) could not clearly be traced to diseases originating in line of duty during his active service. It is believed, however, that a liberal view of the testimony would have justified the medical authorities of the Pension Office in allowing the claim, as the hospital records show that the officer was frequently under treatment during his active service for diseases similar in character to the one which caused his death. The physician (a naval surgeon) who treated Admiral English during his final illness gave it as his opinion that the officer's "long and arduous service brought a train of infirmities which gradually sapped vitality" and assisted in bringing about a fatal termination to his illness.

Mrs. English's petition for relief by special act of Congress is as follows:

To the Honorable Senate and House of Representatives of the United States:

The petition of Elizabeth Moore English respectfully represents:

First. That she is the widow of Earl English, late a rear-admiral in the United States Navy, who departed this life on the 16th of July, 1893, in the city of Washington, being at the time of his death on the retired list of the Navy.

Second. That the said Earl English entered the Navy as midshipman the 25th of February, 1840, and passed through all the grades to that of rear-admiral, the highest rank in the Navy under existing laws, and was retired on the 18th of February, 1886.

Third. That the said decedent served with distinction through three wars and the exposures and hardships of forty-six years on the active list, more than twenty-seven of which were spent at sea, twelve years having been passed in the East Indies, where he was severely wounded in an engagement at the Barrier forts in the Chinese war. Never wavering in his allegiance to the United States throughout his long career, he was distinguished by his services, characterized by wisdom and bravery.

Fourth. That your petitioner's husband died leaving her little property, and that she is in embarrassed circumstances and without adequate means of support. Your petitioner therefore prays that your honorable body will pass an act for her relief, granting to her as the widow of the late Earl English a pension of \$100 per month.

After full and careful consideration of all the facts, and in the light of numerous precedents in similar cases, your committee recommend the passage of the bill, with an amendment striking out the words "one hundred" in line 7 and inserting in lieu thereof the the word "fifty," so as to allow a rating of \$50 per month; also by striking out the words "said pension being in lieu of any pension that he may now receive" in lines 7 and 8.

SOLOMON HYAMS.

FEBRUARY 13, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ELLIOTT, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 3932.]

The Committee on Pensions, to whom was referred the bill (H. R. 2602) granting an increase of pension to Solomon Hyams, have considered the same and report:

Solomon Hyams was a private in Captain Robinson's company, Washington, D. C., Volunteers, and served from June 26, 1836, to December 31, 1836, in the Seminole Indian war.

On October 5, 1882, he filed an application at the Pension Bureau, declaring that while in said service he incurred a rupture from a fall in line of duty. The testimony filed in support of the claim showed that he had been a sufferer from hernia ever since his discharge from the service, but being unable to furnish the required proof as to the circumstances attending the injury his claim was disallowed.

Subsequently, however, he was granted the pension of \$8 per month provided by the Indian war service pension act of July 27, 1892, and he is now in receipt of that sum.

The claimant is now over 90 years old, and in addition to the disabilities incident to that great age, he is suffering from the hernia above mentioned. He is absolutely without any property or income, aside from the pension, and can do nothing whatever to aid in his support. The facts are shown by the affidavit of Dr. T. P. Whaley, of Charleston, S. C., and by the statements of the claimant and others.

There are many precedents for an increased allowance to the aged and destitute veterans of these old wars, and in the light of the facts stated above the passage of the bill is recommended with an amendment striking out the word "fifty," in line 6, and inserting in lieu thereof the word "twenty," so as to fix the rating at \$20 per month.

MARY JANE LYNN.

FEBRUARY 13, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HALTERMAN, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 483.]

The Committee on Pensions, to whom was referred the bill (H. R. 483) granting a pension to Mary Jane Lynn, and appropriating money therefor, having had the same under consideration, submit the following report:

Mary Jane Lynn, the applicant, is now over 78 years of age, and resides in the city of Altoona, Pa. She was born in Union County, Pa., November 23, 1817, and is the only surviving child of John R. Lynn and Jane Lynn. John R. Lynn, her father, enlisted as a private in Captain Gill's company of Colonel Moylan's regiment of Pennsylvania Volunteers in 1780, to serve during the war, and resided at the time of his enlistment at Lancaster, Pa., and was honorably discharged from service. At the age of 63 years he was granted a pension as a Revolutionary veteran, his application being dated April 6, 1818. He died in Union County, Pa., September 28, 1847, and left to survive him a widow and the applicant, who continued to reside with her mother until her mother's death, in 1854.

Miss Lynn, the applicant, is a maiden lady and is in indigent circumstances, and has made her living as a seamstress. She is now of such an age and is so infirm that she is unable to follow her employment, and is dependent to a very large degree upon her friends (she having no relatives) for support.

All the facts relative to the service of the soldier are shown in the papers on file at the Pension Bureau, and competent evidence was given your committee as to the age, relationship, and dependence of the beneficiary.

There are several precedents for the proposed legislation, and, in the light of the claimant's necessitous circumstances, your committee believe that the small pension proposed in the bill should be allowed to her. The passage of the bill is therefore recommended.

MICHAEL S. PETTIT.

FEBRUARY 13, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HARDY, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 3007.]

The Committee on Pensions, to whom was referred the bill (H. R. 3007) granting an increase of pension to Michael S. Pettit, have considered the same, and respectfully report as follows:

The claimant, Michael S. Pettit, was a private in Company F, First United States Mounted Rifles, and served from August 25, 1846, to April 11, 1848, in the war with Mexico.

On January 23, 1883, he filed an application at the Pension Bureau declaring that at Chapultepec, near the City of Mexico, December 13, 1847, he fell from a scaling ladder and broke his foot, and at the same time a shell exploded near his head, bursting the tympanum of the right ear, entirely destroying the hearing of the ear.

The claimant was discharged from the service on a surgeon's certificate of disability, which recites that he was at that time suffering from deafness and lameness to such a degree as to be unfit for further duty with the Army.

The report of the examining surgeons, dated August 2, 1893, shows severe deafness of right ear, an injury of the right foot, and other disabilities, causing total inability to perform manual labor, but owing to the long time that has elapsed since the service was rendered he has failed to secure the testimony required to complete the application, and no allowance of the disability application has ever been made.

After the passage of the Mexican war service pension act of January 29, 1887, Mr. Pettit made application thereunder and was allowed the pension of \$8 per month provided by that act. Since then the pension has been increased to \$12 per month under the act of January 5, 1893, because of the claimant's destitution and inability to earn a support by manual labor.

Mr. Pettit is now about 74 years old, without property of any kind, and an inmate of the Soldiers' Home at Marion, Ind. His statement concerning his services, and the reasons for asking the increased allowance provided by the bill, are as follows:

SOLDIERS' HOME, Marion, Ind., December 8, 1895.

DEAR SIR: In the latter part of the last Congress there was a bill introduced by Mr. McNagny in my behalf, granting me an increase of pension. I will state the facts in my case as briefly as I can:

In 1846 I enlisted in the First Regiment of Mounted Rifle Regulars, under Persever F. Smith as colonel and John C. Fremont as lieutenant-colonel, and served all through the war with Mexico. I was in every engagement from Vera Cruz to the capture of the City of Mexico. I served as pioneer for Company E at the storming of Chapultepec; was with the storming party at that time; lost one shoe, and got my foot cut with glass, but tied it up and still kept with our regiment. Between the castle

and the Belen Greety Gate, while we were going from one arch to another, and when near the gate, a shell burst close to where I was standing in one of the arches and the concussion bursted the tympanum of my right ear, and totally destroyed my hearing in that ear. I still kept with my company, and on the morning of the 14th of September, 1847, helped place our flag over the capitol. After we had been in the city some time my foot and leg became badly inflamed, my ear ran corruption constantly, and I became so bad that I was forced to be sent to the hospital, where I remained until discharged on April 12, 1848. At that time our company (E) was disbanded, and while I was in the hospital I was transferred to Company F, and discharged from Company F.

We had but a short time before got a new surgeon, Newton by name, and our captain being away at home, and I myself not thinking anything about pensions at that time, and being anxious to get away on the next wagon train, paid no attention to the advice of our acting surgeon in chief, who told me at the time that I was entitled to a pension. Now, the facts are these: I have been deaf in my right ear from that time, and I have been lame from the day I was discharged, and I received it all in the line of duty. There was not a stouter or more healthy man in the regiment, as all who knew me would testify. Through neglect I never applied for a pension until a short time before the bill passed giving the Mexican veterans \$8 per month at 62 years of age. Out of the number who were with the colors on the 14th of September, 1847, there are only two living, as far as I can ascertain, myself and Jacob Tourga. Captain Roberts, of the "Rifles," was in command of the colors on that day. He died in Washington a few years ago.

Now, I suppose that all of the papers that I signed at the time I got my pension are on file in the Pension Department, and the testimony there will show that I have stated facts.

Congressman Martin had a copy of my discharge, but I do not know what he has done with it.

I am at this time an inmate of our grand Home here, and it could be almost a paradise for the "vets" if they would make it so—sheltered from storms and rain, every comfort provided by a grateful country that is denied to thousands, and as far as I am concerned, if it were not for family ties at home, I could be content; but one that has always been surrounded with a happy family can not be happy away from them.

Now, if it is just and right for me to be granted an increase, or back pay, so that I can spend the few remaining days with loved ones at home it is all I ask. I am now nearly 74 years old, and I am certain that I have been entitled to a pension ever since I was discharged.

I need not say one word in regard to the Rifle Regiment. Every reader of history knows its record, and as for the fact in regard to planting the first flag over the capitol, see Scott's Official Report, or Goodrich's History of the War with Mexico.

I should not ask anything, even now, had it not been for adversity unavoidable.

Now, if it is possible to help me I will be very thankful, and I am very thankful for what I already receive. If I should be allowed a small increase it would not be for long.

I enlisted at Logansport, Ind. Spear Tipton was first lieutenant. There is not a prominent business man in Logansport but will testify to my moral character—such men as Judge Chase, Judge McConnell, Baldwin & Nelson, Murdock, or any old resident there.

I am, very respectfully, yours, truly,

MICHAEL S. PETTIT,
First Regiment United States Mounted Rifles.

Hon. C. W. STEELE.

P. S.—Senator David Turpie ought to do all he can for me, as he is an old acquaintance; used to live in the same town.

I do not know if you are a kinsman of Uncle Charley Steele, of Wabash, or not, but if you are, I have a right to call him uncle, as he was uncle to my wife. Colonel Butler was her grandfather.

Many of the material facts set forth in the foregoing statement are fully shown by the papers on file at the Pension Bureau, and the claimant's reputation for truthfulness and reliability is fully vouched for by Hon. William D. Owen, secretary of state, and by other prominent citizens of Indiana.

The passage of the bill is respectfully recommended, with an amendment striking out the word "thirty," in line 6, and substituting therefor the word "twenty," so as to fix the rate of pension at \$20 per month; also amend by adding the initial "S." to claimant's Christian name, and by changing the spelling of his surname to "Pettit."

BERNARD CAMPBELL.

FEBRUARY 13, 1896.—Ordered to be printed.

Mr. HITT, from the Committee on Foreign Affairs, submitted the following

REPORT:

[To accompany H. Res. 136.]

The Committee on Foreign Affairs, to whom was referred the following resolution:

Resolved, That the President be requested to transmit to the House of Representatives, if not inconsistent with the public interest, the correspondence with the Government of Haiti concerning the claim of Bernard Campbell, of Boston, Massachusetts, for injuries inflicted upon him in endeavoring to force him by Haytian into the naval service of Haiti.

report the same back and recommend its adoption, with the following amendment:

Amend by striking out the words "by Haytien soldiers," in line 6 of the resolution, after the words "force him."

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NAVIGATION OF UNITED STATES CANALS.

FEBRUARY 13, 1896.—Referred to the House Calendar and ordered to be printed.

Mr. CHICKERING, from the Committee on Railways and Canals, submitted the following

REPORT:

[To accompany S. 565.]

The Committee on Railways and Canals, to whom was referred the bill (S. 565) providing for the establishment and enforcement of rules and regulations for the use and navigation of United States canals and similar works of navigation, and for other purposes, have considered the same and report in favor of the adoption of the Senate report herewith attached.

[Senate Report No. 33. Fifty-fourth Congress, first session.]

The Committee on Commerce, to whom was referred the bill (S. 511) providing for the establishment and enforcement of rules and regulations for the use and navigation of United States canals and similar works of navigation, and for other purposes, have considered the same and report:

This bill is drafted in accordance with the following recommendations by the Chief of Engineers in his annual report for 1892:

“Section 7 of the river and harbor act approved July 5, 1884, authorized the Secretary of War to prescribe proper rules and regulations for the administration, and use by the public, of the Des Moines Rapids Canal, the St. Marys Falls Canal, and the Louisville and Portland Canal, and provided penalties for willful violations of such rules. Similar legislation was subsequently enacted by acts of August 11, 1888, and September 19, 1890, applying to the South Pass of the Mississippi River and the Des Moines Rapids Dry Dock.

“It is desirable that similar authority should be granted to the Secretary of War with respect to all the canals owned and operated by the Government, and that the willful violation of such rules as may be prescribed should be declared a misdemeanor, and penalties therefore be provided. The need of rules to govern the use and navigation of these works, and of adequate provision for their enforcement, applies alike to all the canals. Express legislation in some cases indicates that Congressional action is necessary in all cases for the sufficient and proper enforcement of whatever rules the Secretary of War may promulgate, and difficulty has already arisen from the lack of authority to enforce rules and regulations prescribed for the use of canals not embraced in existing enactments.”

A bill identical with this was favorably reported by this committee in the Fifty-second and Fifty-third Congresses, and passed the Senate, but failed of consideration in the House.

The committee report the bill favorably.

BOOK AGENTS OF THE METHODIST EPISCOPAL CHURCH SOUTH.

FEBRUARY 13, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. LESTER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 653.]

This claim was presented to the Committee on War Claims of the Fifty-second Congress, and was favorably reported upon by that committee. A careful examination of the facts involved brings your committee to the same conclusion as that reached by the committee of the Fifty-second Congress.

A copy of said report is hereto attached and made a part of this report.

Your committee recommend the passage of the bill.

[House Report No. 20, Fifty-second Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 2586) for the relief of book agents of the Methodist Episcopal Church South, submit the following report:

The history of the claim is fully set forth in House report from the Committee on War Claims of the Fifty-first Congress, which is appended as a part of this report.

Your committee report back the bill and recommend its passage.

[House Report No. 3236, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 5164) for the relief of the book agents of the Methodist Episcopal Church South, a corporation at Nashville, Tenn., have had the same under consideration and submit the following report:

The facts out of which this claim for relief arises will be found stated in the Senate report of the Committee on Claims of the Forty-fifth Congress, a copy of which is hereto annexed.

Your committee adopt the said report as their own and report back the bill and recommend its passage.

[Senate Report No. 146, Forty-fifth Congress, second session.]

The Committee on Claims, to whom was referred the petition of the book agents of the Methodist Episcopal Church South, a corporation at Nashville, Tenn., have had the same under consideration and submit the following report:

The Confederate forces having occupied Nashville, Tenn., for a short period during the late civil war, evacuated that place after the surrender of Fort Donelson. Within three or four days after that event General Buell, with his army, reached Edgefield, a village separated from Nashville by the Cumberland River. There he was met by the mayor of Nashville, who was accompanied by a delegation of citizens and some members of the city council.

When General Buell was informed of the object of their mission, which was to inform him of the condition of Nashville and to invite him to occupy and protect the city, he expressed gratification at the proceeding, and assured the deputation "that protection to both persons and property of all peaceable citizens would be fully extended by the Army of the United States," and he requested the mayor so to inform the people of Nashville. Whereupon the mayor issued the following proclamation:

PROCLAMATION.

The committee representing the city authorities and the people have discharged their duty by calling on General Buell at his headquarters in Edgefield on yesterday. The interview was perfectly satisfactory to the committee and there is every assurance of safety and protection to the people, both in their persons and their property. I therefore request that business be resumed, and all our citizens, of every trade and profession, pursue their regular vocation.

The county elections will take place on the regular day, and all civil business will be conducted as heretofore; and the commanding general assures me that I can rely upon his aid in enforcing our police regulations. One branch of business is interdicted—the sale or giving away of intoxicating liquors. I shall not hesitate to invoke the aid of General Buell in case the recent laws upon this subject are violated.

I most earnestly call upon the people of the surrounding country, who are inside of the Federal lines, to resume their commerce with the city, and bring in their market supplies, especially wood, butter, and eggs, assuring them that they will be fully protected and amply remunerated.

R. B. CHEATHAM, *Mayor*.

This proclamation was issued on the 26th of February, 1862. On the same day General Buell issued his proclamation, as follows:

GENERAL ORDERS, No. 13.

HEADQUARTERS DEPARTMENT OF THE OHIO,
Nashville, Tenn., February 26, 1862.

The general commanding congratulates his troops that it has been their privilege to restore the national banner to the capital of Tennessee. He believes that thousands of hearts in every part of the State will swell with joy to see that honored flag reinstated in a position from which it was removed in the excitement and folly of an evil hour; that the voice of her own people will soon proclaim its welcome, and that their manhood and patriotism will protect and perpetuate it.

The general does not deem it necessary, though the occasion is a fit one, to remind his troops of the rule of conduct they have hitherto observed and are still to pursue. We are in arms not for the purpose of invading the rights of our fellow-countrymen anywhere, but to maintain the Union and protect the Constitution, under which its people have been prosperous and happy. We can not look with indifference on any conduct which is designed to give aid and comfort to those who are endeavoring to defeat those objects; but the action to be taken in such cases rests with certain authorized persons, and is not to be assumed by individual officers and soldiers. Peaceable citizens are not to be molested in their personal property. All wrongs to either are to be promptly corrected and the offenders brought to punishment. To this end all persons are desired to make complaint to the immediate commander of officers or soldiers so offending, and if justice be not done promptly then to the next commander,

and so on until the wrong is redressed. If the necessities of the public service should require the use of private property to public uses, compensation is to be allowed. No such appropriation of private property is to be made except by the authority of the highest commander present, and any other officer or soldier who shall presume to exercise such privilege shall be brought to trial.

Soldiers are forbidden to enter the residences or grounds of citizens upon any plea without authority.

No arrests are to be made without the authority of the commanding general except in case of actual offense against the Government, and in such cases the fact and circumstances will immediately be reported in writing to headquarters through the intermediate commanders.

The general reminds his officers that the most frequent depredations are those which are committed by the worthless characters who straggle from the ranks on the plea of being unable to march; and where the inability really exists it will be found in most instances that the soldier has overloaded himself with useless and unauthorized articles. The orders already published on this subject must be enforced.

The condition and behavior of a corps are sure indications of the fitness and efficiency of its officers. If any regiment shall be found to disregard that propriety of conduct which belongs to soldiers as well as citizens they must not expect to occupy the post of honor, but may rest assured that they will be placed in position where they can not bring shame on their comrades and the cause they are engaged in. The Government supplies with liberality all of the wants of the soldier. The occasional deprivations in hardships incident to rapid marching must be borne with patience and fortitude. Any officer who neglects to provide properly for his troops, and separates himself from them to seek his own comfort, will be held to a rigid accountability.

By command of General Buell.

JAMES B. FRY, *A. A. G., Chief of Staff.*

Official.

J. M. WRIGHT, *A. A. G.*

From the date of the foregoing proclamation until the end of the war Nashville and the country north of that place, in Tennessee, was under the control of the Federal Army, and the civil authorities, including the courts, local and Federal, were in the full and free exercise of their functions and jurisdictions. These results were the fruits of the proclamation of General Buell restoring that part of Tennessee to national authority and giving "the full measure of protection to persons and property consistent with a necessary subjection to military government."

The proclamation of Major-General Butler, when he occupied New Orleans, on the 29th of April, 1862, after announcing that the city was under martial law and the principles by which the commanding general would be guided in its administration, contains this clause of protection: "All rights of property of whatever kind will be inviolate, subject only to the laws of the United States." In the case of *The Venice*, 2 Wallace, 258, the Supreme Court of the United States decides that this clause "only reiterated the rules established by the legislative and executive action of the National Government in respect to the portions of the States in insurrection occupied and controlled by the troops of the Union." In the same opinion the Supreme Court says further: "The same policy may be inferred from the conduct of the war. Wherever the national troops have reestablished order under national rule, the right of persons and of property have been, in general, respected and enforced. When Flag-Officer Farragut, in his first letter to the rebel mayor of New Orleans, demanded the surrender of the city, and promised security to persons and property, he expressed the general policy of the Government. So, also, when Major-General Butler published his proclamation and repeated the same assurance and made a distinct pledge to neutrals, he made no declaration which was not fully warranted by that policy. There was no capitulation. Neither the assurance nor the pledge was given as a condition of surrender. Both were the manifestation of a general purpose, which seeks

the reestablishment of national authority and the ultimate restoration of States and citizens to their national relations under better forms and firmer guaranties without any views of subjugation by conquest."

There was no formal military surrender either of New Orleans or Nashville, but in Nashville there was no formal submission of the local civil authorities to the national authority; while in New Orleans the mayor refused to give the pledge of such submission. "There was no capitulation, neither the assurance nor the pledge was given as condition of surrender" in either case. The orders of General Buell were much broader and more definite than those of General Butler. They reached to the conduct of officers and men of his army and put them under express injunctions against all interference with the property and homes of the people who would remain peaceable, and expressly provided for compensation for all property taken for public use.

Your committee are impressed with the conviction that the orders of General Buell (above copied), while in the military occupation of Nashville—which was not "illusory, not imperfect, not transient, but substantial, complete, and permanent"—drew after them "the full measure of protection to persons and property consistent with a necessary subjection to military government," and that the citizens of Nashville who remained peaceable during such occupancy and their property can not be regarded as remaining enemies or their property as enemies' property after the 26th of February, 1862, by intendment of law. They were protected against this condition by the proclamation of General Buell.

This view seems to derive much additional force from the proclamation of the President, dated August 16, 1861, in which he limits the declaration that certain States and parts of States are in rebellion, as follows:

Except the inhabitants of that part of the State of Virginia lying west of the Alleghany Mountains and of such other parts of that State, and other States hereinbefore named, as may maintain a loyal adhesion to the Union and Constitution, or may be from time to time occupied and controlled by forces of the United States engaged in the dispersion of said insurgents.

The generals of the Army, including General Buell and his successors, permitted this loyal status of the people of Nashville to remain, and followed the avowed policy of the Federal Government in their dealings with them as declared in the case of *The Venice*. Many houses of citizens and some of the churches were used for Army purposes, but they were paid for, or quartermasters' vouchers were given for their use.

In this way the public pledges of General Buell were faithfully observed; the people engaged freely in their business pursuits; the courts were opened and the civil administration of the laws prevailed so far as was "consistent with a necessary subjection to military government."

This condition of the national authority in Nashville, during its military occupation by the Federal Army, is satisfactorily established by the history of that property, the use of which by the Army quartermasters is the foundation of this claim.

On the 24th of May, 1862, a libel of information was filed by the United States district attorney in the circuit court of the United States to sequester, and condemn, and sell, and to confiscate the proceeds of the property, real and personal, for which the corporation called the "Book Agents of the Methodist Episcopal Church South" is claiming rent, and also compensation for such of it as was consumed in the use, or was lost, wasted, injured, or destroyed.

The record of the proceedings in said cause is appended to this report,

and is marked Exhibit 1. Under a warrant of arrest issued in pursuance of the prayer of the libel on the 24th of May, 1862, the marshal of the United States arrested the property described in the libel, and indorsed the arrest on the warrant which he returned to the circuit court.

On the 3d of June, 1862, the "Book Agents of the Methodist Episcopal Church South" by that name interposed its claim to the property arrested in the circuit court; gave security for costs; asked to be allowed to intervene for its alleged rights of property and possession, and to plead to and defend against the libel and to replevy the property so arrested and seized, and the court granted the prayer of the petitioner.

The bond to replevy the property was filed on the 4th of June, 1862, in the sum of \$60,000, with two sureties.

On the 27th of June, W. R. Elliston, one of the sureties, applied to court to be released from the bond for the following reasons set forth in his affidavit: "He states that said cosurety (R. Abbey) has rented out some of the machinery, including a press and type, etc., to other persons without deponent's consent or knowledge and against his wish, and he fears that it will be so used that if destroyed or misused he will be liable upon his bond without his consent to the misuse. He is willing to remain liable for the forthcoming of the property if he and his cosurety can be permitted to hold it in the state in which it was when seized in this case. But his cosurety has not so acted, and has placed a part of the property beyond his own control, where it may be destroyed and deponent made responsible for the acts of others and against his consent." These statements relate to the fact that R. Abbey, as the agent of the defendant corporation, after the property had been so replevied, had consented or acquiesced in the taking of certain presses and type, lathes and tools, for the quartermasters of the Army, which were taken to the front to be used to do printing and other work for the Army near its lines, then advanced far to the south of Nashville.

On the 28th of June, 1862, Justice Catron, presiding in the United States circuit court, at Nashville, after notice had been served on said Abbey, as agent, etc., heard said motion and entered the following order:

On consideration of the matters founded on this affidavit I refuse to release William Ellison as a surety to this bond.

J. CATRON, *Presiding Judge.*

JUNE 28, 1862.

On the 24th of April, 1864, an amended information was filed in said cause by the district attorney of the United States, and a second seizure of the property was made or indorsed on the process. This was a seizure pro forma, to secure regularity in the proceedings.

Answers, pleas, and demurrers were filed in the cause, as well by the said corporation as by other intervenors who were admitted to defend the suit for such interests as they claimed respectively. Issues were formed on these several pleas. Afterwards the case was continued by the United States, at the request of the Attorney-General, from term to term, until the 13th of November, 1865, when it was dismissed by the direction of the Attorney-General of the United States. The said Attorney-General says he will no further prosecute herein. And the court imposed certain costs and allowances on the defendants, and certified that there was probable cause for the seizure of the property, thereby certifying to its legality when it was made.

After General Buell entered Nashville the corporation of "Book Agents," etc., continued its business of publishing books, tracts, etc.,

and doing job work for its customers until the property was arrested under the libel proceedings above referred to; and after the property was replevied it still continued its business. Some of its lathes, presses, types, cases, and tools suited for detached job offices and some other machinery were taken by the quartermasters of the Army, as before stated. With this exception the property remained in the custody of the bailee, the defendant corporation, until on or about January 1, 1864, when the entire establishment, the house and all its contents, were taken possession of by Col. J. D. Donaldson, chief quartermaster of the military Department of the Cumberland, by order of Maj. Gen. George H. Thomas, commander in chief of the department, for the use of the Army of the United States, "as confiscable property, and so held and used until the 13th of December, 1865, when what remained of it was returned to said "Book Agents." The following extract from the report of the chief quartermaster of the Department of the Cumberland, dated June 30, 1865, sets forth the circumstances under which the seizure was made:

UNITED STATES PRINTING HOUSE.

"The Methodist Publishing House," confiscable property in the city of Nashville, was taken possession of in January, 1864, by order of Maj. Gen. George H. Thomas, commanding the department, and used as a Government printing house. The operations of the establishment up to June 30, 1864, were given in my last annual report. During the year ending June 30, 1865, over 5,300,000 impressions were made; 4,352 forms printed; 101,000 quires of paper used; 223,000 quires of blanks furnished, at a total cost to the United States, including pay, commutation, etc., of enlisted men, of \$29,261.40; actual cost to the Quartermaster's Department, \$25,456.45. (These figures are shown by the monthly reports of the officer in immediate charge of the printing house heretofore forwarded to your office.) The details of the establishment have been under the direction of Brevet Maj. A. W. Wills, A. Q. M., who deserves great credit for its economical management. The average saving to the Government, taking Cincinnati, Chicago, Pittsburg, and Nashville prices, as shown by monthly reports heretofore sent, is 82½ per cent, though it is believed the actual saving is 100 per cent. No work of any description is allowed until a requisition is first approved at this office. At this writing it is being turned over to the "Bureau of Refugees, Freedmen and Abandoned Lands," as no longer needed for the public service. The concern merits my warmest praise, and I recommend it to your favorable notice and consideration.

The proceedings in this case of libel for confiscation were conducted with as much regularity, and with as little interruption, as if they had been instituted in a court of New York. Justice Catron presided in his circuit court at Nashville, from term to term, with as little obstruction and as little threat from the enemy as he did in the Supreme Court at Washington.

Whatever theories may be advanced, and with whatever skill they may be supported, as to the legal status of the people of Nashville, the fact remains that the national authority was actually enforced there through the national courts, and they administered the laws, local and national, so far as applicable to controversies between citizens, as completely and effectively within the territory protected by the Federal armies as could have been done in any loyal State. This condition of the country included within the operation of General Buell's orders would of itself give to the people there the same protection under the laws of the United States that is so distinctly provided for in the terms of the order, viz, "If the necessities of the public service should require the use of private property for public purposes, compensation is to be allowed."

This law of compensation declared by General Buell is the same that is found in the Constitution of the United States and in all States regulating the right of eminent domain. This is not the rule that governs

in cases of capture or seizure *jure belli*. In such cases the property is taken without reference to compensation. The order of General Buell also provides that "no such appropriation of private property is to be made except by authority of the highest commander present," thus cutting off all right to make a capture of private property in Nashville after the date of the order, except on the conditions named in the order, and by the express order of the highest commander.

On the 24th of May, 1862, there was nothing in the military or political situation at Nashville, or in the condition of the people, or in the condition of the property of the book agents' corporation, to prevent the jurisdiction of the United States circuit court from attaching upon the property of that concern, on a libel instituted to condemn it, if the property or its owners were guilty under the confiscation statutes. And when that property was seized under such proceeding, while it continued under the jurisdiction of the circuit court of the United States it was not liable to capture by the Army. Yet it is scarcely necessary to consider this point, for the reason that the United States has never claimed ownership of this property as captured property, nor even that its seizure for the use of the military department was made *jure belli*. In both instances, when the Government seized the property, first under the libel proceeding, and then under the order of General Thomas, it was seized as confiscable property. It was seized for confiscation under the penal statutes of the United States, and not as property in which the United States had acquired any interest otherwise than by virtue of those statutes.

Those statutes provide only for condemnation of the property in the courts of the United States after a trial duly had.

They furnish no authority for appropriating the property of rebels without due course of law. The Army can not enforce these statutes except in aid of the powers and proceedings of the courts. It certainly can not exercise jurisdiction under the confiscation laws so as to oust the circuit courts of the United States of a jurisdiction acquired and exercised over property seized under their orders on libels of information.

The following records from the War Department disclose the grounds on which the seizure of the claimants' property was made by order of General Thomas:

HEADQUARTERS DEPARTMENT OF THE CUMBERLAND,
Chattanooga, Tenn., December 28, 1863.

COLONEL: It has been for a long time in contemplation at these headquarters to make an Army printing office of the Methodist Publishing House in Nashville.

The house has been confiscated by the United States Government, and is represented as being in every way eligible for the printing of blanks and orders, and the binding of the same, and by being run by the Government would save from \$25,000 to \$30,000 per year to the Government, without counting loss of time in getting work beyond the Ohio.

The major-general commanding desires that you will examine into the feasibility of the plan of using the office for doing all sorts of printing for the Army, and report upon the same.

Very respectfully,

Assistant Adjutant-General.

Col. J. L. DONALDSON,
United States Quartermaster, Nashville.

CHIEF QUARTERMASTER'S OFFICE,
Nashville, Tenn., January 6, 1864.

GENERAL: In obedience to the order of the major general commanding, I have had the Methodist Book Concern in this city examined, and find it suitable for the Army

printing, and have accordingly directed Capt. J. F. Isom, acting assistant quartermaster, to take possession of it for that purpose.

I am, General, very respectfully, your obedient servant,

J. L. DONALDSON,
Senior Quartermaster.

Brig. Gen. W. D. WHIPPLE, *A. A. G.*,
Chattanooga, Tenn.

HEADQUARTERS DEPARTMENT OF THE CUMBERLAND,
Chattanooga, January 27, 1864.

Lieut. Col. J. L. DONALDSON,
Senior and Supervising Quartermaster:

The major-general commanding directs that you seize the establishment in Nashville known as the Methodist Printing House, and that you prepare it as early as possible for the printing of forms and binding of books of all kinds required by this army, particularly at these headquarters, such as muster rolls, returns, record books, for department, corps, division, and brigade headquarters.

Very respectfully, your obedient servant,

W. D. WHIPPLE,
Assistant Adjutant-General.

The letter to Colonel Donaldson, United States quartermaster, asserts that "the house has been confiscated by the United States Government." Such was not the fact, however, as it had only been libeled for confiscation, and was in the custody of the court through its bailees at the time when General Thomas ordered its seizure. It is therefore clear that the United States never made a capture of this property. General Buell's order prevented it from capture and seizure, and General Thomas, whatever may have been his power over the property to withdraw the protection of General Buell's orders, did not withdraw such protection. To the reverse, he assumed that it had been confiscated by the Government, and was Government property, and took it into possession as such, as being "in every way eligible for the printing of blanks, orders," etc. It was not seized with reference to its usefulness in any tactical or strategic sense with reference to army movements. Such a seizure could not oust the circuit court of the United States of its rightful custody and control of this property, and added nothing to the right or authority of the Government in its disposal.

The seizure was made by the commanding general for the convenience of the civil department rather than of the Army, and to save money to the Government in printing for the use of a military department and the Army. The law of military necessity did not apply, but whether or not it was applicable the protection given by the proclamation of General Buell, by the President's proclamation, and by the custodianship of the property in the hands of the circuit court (either, and certainly all together), places this property beyond the reach of the ordinary rules which apply to enemies' property. When the Government gives such protection to property, it assumes to pay for the use of it if any urgent necessity requires it to apply the property to the public use. Under such circumstances, the property being relieved by the act of the Government from liability to military capture, the seizure of it, even if it was a military seizure, made by competent authority, was an exercise of the right of eminent domain, which is never exerted except upon the condition prescribed in the Constitution, that just compensation shall be made to the owner.

The application of this provision of the Constitution is not affected by the fact that the seizure was made by a military government. Conced-

ing as a fact that which does not appear to be true, that civil government in Nashville at the time of the seizure of this property was not in full and effectual operation, the military government there, when it undertook to enforce the confiscation of property for the crimes of its owners, under the authority of the statutory laws of the United States, was bound also to respect the Constitution of the United States in the administration of those laws. But there should be a very clear and very grave necessity to justify the Army or a military government in taking property from the lawful custody of a court of the United States. It is to be presumed that the court would surrender the property so in its custody to the Army whenever the necessity was shown to exist, but it should never be held that when a court holds property in its custody for the adjudication of the question whether it is forfeited to the Government for the crime of its owner, the Army or a military government can take the property from the custody of the court and appropriate it to the Government as confiscated property. The court alone can render judgment of forfeiture in such cases, and can alone proceed to condemn and confiscate it, and when it is proceeding to adjudicate in such a matter, and is in the full and free exercise of its lawful authority, neither prevented nor controlled by any cause from discharging its duty, no other authority can take the matter out of the hands of the court and proceed to render judgment, or declare, in any form, that the property is confiscated. Congress could not do so much, and it is not possible that a military government, while acknowledging the laws of the United States, can lawfully exercise such authority over a court of the United States.

And yet this is the precise attitude of this matter. The property was seized by order of General Thomas, the major-general commanding the Department of the Cumberland, as confiscated property, while the United States was suing in its own courts for its condemnation, and it was not released by the army officers until after the suit had been dismissed and after peace had been proclaimed in Tennessee by the President, when it was "turned over to the Bureau of Refugees, Freedmen, and Abandoned Lands as no longer needed for the public service."

Judge Catron refused to discharge a surety on the replevy bond, because the "Book Agents," etc., corporation had consented to the use of some of the property by army quartermasters, thereby holding that the bond was a valid obligation, and that the property was in lawful possession and control of its lawful bailee. His ruling was, in effect, that property in the situation of this property was not subject to the supreme control of martial law, so that the mere taking of it by a quartermaster, under the orders of a military commander, would exonerate the sureties of the bailee from responsibility for its forthcoming.

Judge Catron did not think that the taking of this property in its then situation was a taking under the law of necessity, or under the domination of military force to which the civil power could properly yield, so far, at least, as to surrender its jurisdiction over the property.

In this matter, as well as in the final disposal of the case, and especially in the order made at the request of the Government to enter judgment of nolle prosequi in the proceedings, and in certifying to probable cause for the proceedings, so as to protect the informer against damage for an unlawful seizure, and in the imposition of costs on the claimants personally, for which execution was ordered to issue, the circuit court of the United States asserted its jurisdiction, and maintained it over this property continuously from the moment it was seized until it was released by its final judgment. It never admitted that its

powers of jurisdiction during this period had been suppressed by martial law, nor that, by any lawful exercise of military force, its custody of the property had been broken. This is the more certain and plain when we recur to the fact that its jurisdiction under the libel was in rem, and not merely in personam. This is true, not only in consequence of the nature of the proceedings under which the property was seized, but also for the reason that the statutes, known as the confiscation laws, create a forfeiture of the title of the property to the United States for the offense of the owner, or for the offensive use of it by any authority with the consent or acquiescence of the owner or his agent.

In such cases, and under such proceedings, the Government simply proceeds to assert, through its judicial tribunals, its title to the property, and to dispose of it according to its laws. The jurisdiction of the circuit court did attach on the filing of the libel, and could only be exerted by the arrest of the property, which is an indispensable prerequisite of the exercise of such jurisdiction. The property was arrested under process of law in all respects regular, and the court maintained its custody of the property by express orders, until it finally decided the cause.

This cause proceeded, from its beginning to its end, so far as the circuit court of the United States was concerned, just as it would have been conducted in any State not included within the insurrectionary territory.

It is difficult to perceive why the judgment is not equally conclusive though it was rendered in Tennessee. The court found no impediment to its initiating the suit, or in the execution of its lawful process therein; in exerting its power in continuing the cause; in maintaining its authority, or in making its final orders. The United States attended regularly in court to prosecute its suit through the entire proceeding, and made no suggestion that the Government had relieved the court of its jurisdiction over the property by having interposed the superior power of martial law. The Government, on its own motion, continued the cause in court, thus constantly maintaining the jurisdiction of the court over the property. This jurisdiction was not released or in any way impaired, but was rather confirmed by the fact that the court had permitted a claimant to replevy the personal chattels included in the arrest or seizure. A bond was interposed and sureties were provided for the return of the property to answer the judgment to be rendered in the cause. Such a bond has no other effect than to change the custody of the property from the marshal to the special bailees. They hold it for the court and must surrender it to the court when required, and are subject to punishment for their refusal to do it. They are liable also for injury and loss to the property while in their custody. Their custody is the custody of the court, and while it lasts the property is in *gremio legis*. The court may require the bailees to pay rent for the property while it is in their custody if it is finally condemned. In every respect therefore the circuit court of the United States at Nashville had the authority to proceed to final judgment upon every question touching the ownership of this property and its confiscable character. It did proceed to judgment on that subject at the instance of the United States, and it must be now considered that the United States did not own this property at the time that its Army seized it in January, 1864, or else it waived and solemnly abandoned its right.

The Government has admitted by its refusal to prosecute the suit, and the court has decided, that this property never was forfeited to the United States by the crime of its owners.

The judgment of *nolle prosequi* rendered at the instance of the Government, in which costs are imposed, is not merely an act of amnesty; it is a judgment upon its confession, either that it never had the right to condemn this property or that it was unwilling to assert its right to condemn it, and waived it on condition of the payment of costs by the intervenor. And it must have been for this reason that Justice Catron entered the order that there was probable cause for the prosecution, but not actual cause. The United States is conclusively bound by that judgment, so that none of its courts can now condemn the property, and so that Congress should not assume that it should have been condemned. This view of the matter seems to dispose of it so far as the right of the parties to the property is concerned.

A final judgment of discharge of the property seized for confiscation is as conclusive of the title as a judgment of condemnation would be, because such a judgment binds the courts. Chief Justice Marshall, in *Williams v. Armroyd* (7 Cranch, 432), says:

It appears to be settled in this country that the sentence of a competent court, proceeding in rem, is conclusive with respect to the thing itself, and operates as an absolute change of property. By such sentence the right of the former owner is lost and a complete title given to the person who claims under the decree. No court of coordinate jurisdiction can examine the sentence. The question, therefore, respecting its conformity to general or municipal law can never arise, for no coordinate tribunal is capable of making the inquiry.

The military authorities never seized the property as "captured or abandoned property," but as confiscable property; and in June, 1865, by order of General Thomas, it was "turned over to the Bureau of Refugees, Freedmen, and Abandoned Lands, as no longer needed for the public service."

In any view of the case the property remained the property of the "book agents," etc., corporation, and the ownership was not changed by either the legal or military custody to which it was subjected.

The Government of the United States under its laws, duly enforced through the judicial department, arrested and seized as its own the property of the claimant, and put it in charge of the claimant under bond and security as the bailee of the court which became its custodian, and under the further pledge of the laws and the court that the property should be returned to the claimant at the end of the suit if the Government should not make good its assertion of title. And the Government, with its military arm, took the property out of the custody of the law, in which it was held to answer judicial proceedings for its confiscation, for the purpose of enforcing the same statutory right of confiscation by the mere order of a military commander; used it for its own purposes, in which use it was greatly damaged, and returned a part of it to the claimants, much of it having been lost, consumed, and wasted in the use that was made of it. This property having been seized by the court, and also by the Army, for the purpose of confiscation, and not in the assertion of a title by capture, conquest, or other mere right of war, we are relieved from further inquiries into the questions whether the general commanding the Department of the Cumberland could lawfully have captured the property situated as this was, and could have used, converted, or destroyed it at his pleasure, and could also have deprived the claimant of the right of just compensation for it under the Constitution. The property of a citizen in the custody of a court of the United States as confiscable property can not be taken out of that custody by the executive power for the same purpose without imposing on the Government the duty of paying for the use of it, and for such damage or loss

as the owner may sustain by reason of such intrusion upon the property as well as upon the authority of the court.

The testimony in support of this claim is the best and most satisfactory the nature of the case admits of, except that the witnesses have not been subjected to cross-examination. The witnesses are well known, or well vouched for, as men of good standing—the agent, the head clerks in the different departments, engineers, master mechanics, book-keepers, and other men employed in the house, each testifying to matters under his own supervision. The values of the different kinds of property taken are necessarily inexact, being estimates made up by experts from such data as existed—books, invoices, etc. But there was no sufficient opportunity of taking an inventory of the property itself, the actual possession being taken with but three hours' notice in the bad weather of midwinter. It was a very large printing establishment, and run by steam power. It was amply supplied with machinery, presses, type, material for stereotyping, lathes, and tools, and had a large stock of paper suited for book and job printing, besides much other material for binding books, and the many appliances which belong to such establishments. It was the largest printing and publishing house south of New York, except the Government Printing Office in Washington. Its capacity is shown by the very large results set forth in the report of the quartermaster of the Department of the Cumberland above copied. Over 5,300,000 impressions were made in one year, and 4,352 forms were printed, 101,000 quires of paper were used, and 223,000 quires of blanks were furnished in the same period. The cost of all this work to the Government was only \$29,261.40. The average saving to the Government, taking Cincinnati, Chicago, Pittsburg, and Nashville prices, was 82½ per cent. The actual saving was fully 100 per cent, according to the quartermaster's estimate. The committee understand this statement in the report of the quartermaster to mean that the Government gained a clear profit in the use of this printing house and machinery, and of the material found there, of the entire amount of the work turned out. This was a large sum of money, all of which the claimant could have made if the property had been allowed to remain in its possession. Besides this, the presses and machinery were used so constantly, and were run at such a high rate of speed, as greatly to damage them. A large amount of books in the storerooms were lost or seriously damaged. The stores were taken to house the quartermaster's property, and the claimant was driven out.

While there is not seen by your committee any necessity—certainly no pressing emergency—that this printing establishment should have been taken possession of and conducted by the Army, there was very great and apparent necessity that it should be used for the benefit of the Army, for there was no other property in the country nearer than the Northern cities that would be at all adequate to those necessities; and that it was of great service to the Army is abundantly apparent. Gen. Clinton B. Fisk, of New York, who was intimately conversant with this property and the use the Army made of it, states as follows:

ATLANTIC AND PACIFIC RAILROAD COMPANY,
Drexel Building, New York, April 9, 1874.

MY DEAR SIR: In response to your favor of the 8th instant, I beg leave to say that I was assigned to duty in Nashville, Tenn., in April, 1865, and was in command of the district of Tennessee a part of that and the following year. I was also assistant commissioner of the Freedmen's Bureau, and gave the order (under direction of my superior officer) for the restoration of the property of the Methodist Episcopal Church South to its rightful owners. I was familiar with the facts presented in your memorial to Congress, asking consideration of your claim, and do not hesitate to say that

your representations are correct, and the demands of the church you plead for are reasonable. I hope the Committee on War Claims will recommend such award in this case as justice to the multitude of men, women, and children interested in the claim demands. The committee is composed of eminently fair-minded, just, and able men, who will doubtless give this important matter such consideration as it deserves.

Yours, truly,

CLINTON B. FISK,
Late Brevet Major-General, U. S. Volunteers.

To Rev. R. ABBEY, *Washington, D. C.*

A portion of the building was torn down to arrange for more convenient access to the printing rooms. Job offices, consisting of types and presses, were taken away and not returned, and so of lathes and other tools.

Your committee are informed, through the agents of the claimant, that it is willing to accept \$288,000 in full discharge of all liabilities of the Government. The payment of this sum would probably do the Government no injustice if the allowance to be made is placed on the footing of compensation to be awarded for all the damage done the claimant's property and all the profit it could have derived from its use in job work for the Army.

This is the sum that remains after reducing the price for the rent of the machinery, etc., below the estimates of the witnesses from 25 per cent to 20 per cent of its cost, which is the lowest sum named in the testimony by any of the experts, and reducing the amount claimed for injury done to the property from 50 per cent to 20 per cent, which is less than half the amount named by any of the experts, and by reducing the charge for merchandise used, etc., from 50 to 25 per cent. Your committee think it more in accordance with a wise and just policy in such cases to make reasonable restitution rather than to enter into an accounting of losses and damages, or of profits that might have accrued to the claimant if there had been no disturbance of its business. In this case there was no wanton destruction of property. There was much unavoidable loss to the claimant, which resulted in no benefit to the Government. The claimant sustained other serious losses by the alteration of the buildings to adapt them to the purposes of the Quartermaster's Department.

The sum of \$288,000, with the present purchasing power of the national currency, would provide a fair means of restoration to the "Book Agents," corporation of the foundation of this charity, and would be, as we understand the proof, a less sum than was saved to the Treasury in the use of material, machinery, houses, and the appliances of this great printing house. This sum is much below the lowest estimates of any of the witnesses as to the losses actually sustained by the claimant, and would not be adequate compensation if measured by such a standard. But with the prudent use of this sum, at the present prices of property, it is believed that this public charity can be reinstated.

The following statement, made in the petition, your committee find to be correct, viz:

The delay in presenting this claim was unavoidable. The entire business is under control of the general conference, which meets only quadrennially. At its session in 1866 we were advised by counsel to let the matter rest until the affairs of the country should become more settled.

At the conference of 1870 an agent was appointed, but his failing health and inability to spend the necessary time in Washington caused further delay, when the present agent was appointed. The claim was presented to the second session of the Forty-second Congress in December, 1872, but we could not get a report from either of the committees of that session.

On the assembling of the Forty-third Congress our claim was in the hands of the House of Representatives on the day of its organization, but we utterly failed to get a report from the Committee on War Claims, to which it was referred, until one or two days before the close of the first session. Then we have four different reports—one of them stating but little else but that the case had not been fully examined by the committee; another that it was inexpedient *now* to pay the claim; and one favorable and one unfavorable, for reasons stated.

In the second session of last Congress it is well known that little or no business of this character was acted upon, nor could we get our claim before the House.

The loyalty or disloyalty of the claimant, its agents, its membership, or its beneficiaries, does not appear to your committee to be a necessary inquiry in this case.

The Government, acting under its own civil statutes and through its courts in the confiscation of property, puts in issue the only phase of the disloyalty of a citizen which affects his right of property.

The decision of the court that the property is not confiscable is a decision that such person owns and has the right to enjoy it. And the refusal of the United States to proceed under the statutes to get a decree of confiscation on a libel filed for that purpose, which is ended with a *nolle prosequi*, is a final declaration that the Government will not claim the forfeiture. No treasonable use could have been made of this property by the agents of this corporation which would not have been a gross violation of their authority. They could not impress the property of this charitable institution with their crime so as to render it liable to forfeiture. There was no law to justify the circuit court of the United States at Nashville in withholding the property of the claimant when it was not condemned. If it had rented out the property or sold it, the right of the claimant to the rental or the proceeds of the sale would be unquestionable.

The Government can refuse to pay a person who was disloyal any debt it may owe such person, but this discretion should be exercised with wisdom, and for the highest reasons of public policy. Your committee do not believe that public policy or public sentiment requires Congress to refuse to restore this charity.

This corporation was chartered by the legislature of Tennessee 25th of February, 1856, "for the manufacture and distribution of books, tracts, periodicals," etc., "under control of the said Methodist Episcopal Church South, according to the laws and usages of the same, as contained in their present or in any future edition of their Discipline."

It was intended, in the broadest sense, to be an eleemosynary institution through which there could be furnished at very low rates, and also gratuitously, religious literature and schoolbooks to the people. There was no stock of the corporation, and all its increase was to be and was devoted to increasing the usefulness of the charity. The means placed within its control, from whatever source they were derived, were dedicated to the purposes of its foundation. The ecclesiastical body known as the "Methodist Episcopal Church South," which was also a legal corporation, selected the persons to conduct the business of the "Book Agents," etc., corporation, and give general direction to its operations. The discipline of the church referred to in the act incorporating the "Book Agents," etc., is the authentic declaration of the relations of the church to the Government. Nothing but the authority that is competent to change this Discipline can alter these relations. They have been the same for nearly a century, and were not altered as to either branch of the church by the unfortunate division that occurred in 1845.

These relations conform to and correspond with the constitutional declarations on the subject, leaving no room for any agent of the church,

in any way, except by obedience to lawful authority, to participate officially in any matter relating to the government of the country.

When the war commenced, this church found its territorial boundaries cut in twain by the operations of the armies, so that nearly equal portions of it were on the opposing sides. In this emergency it sought to preserve its relations to the Government of the United States, so as to avoid the embarrassments of the war. The deposition of the Rev. Thomas M. Finney on this subject gives a full account of this matter, and is as follows:

STATE OF MISSOURI, *County of* ———:

Personally appeared before the undersigned, Joseph E. McGinnis, notary public for St. Louis County, Mo., Thomas M. Finney, a man well known to me, who, being duly sworn, deposes and says he is a minister of the gospel in the Methodist Episcopal Church South, and is and has been since the year 1851 a member of the St. Louis Conference of said church. That in the year 1863, seeing the course the war of the rebellion was taking in most of the Southern States, and that a considerable portion of the ministers and members of his said church lay in that direction, said affiant, with other loyal ministers and members of said church, felt great fear and apprehension lest in some way the war might work a real or apparent disturbance or disruption of the relations heretofore existing between said church and the Government of the United States; that, as said affiant understood and believed, some of the leading members and ministers of said church consulted with able lawyers and were advised thus what they had best do in the then anomalous circumstances of war and general disturbance. Affiant further states that, as he understood and believes, the most suitable measures practicable were adopted under and in pursuance of such legal advice above alluded to, and conformable as near as practicable to the usage and custom of said church. A general convention of said church was advertised and called to be holden in the city of Louisville, State of Kentucky, on the 6th day of April, 1864, and that the following-named conferences of said Methodist Episcopal Church South appointed delegates to said convention in the usual way, or as nearly so as practicable, to wit: The Kentucky and Louisville Conference, comprising the State of Kentucky; The Western Virginia Conference, comprising the western part of the State of Virginia; the Holston Conference, comprising parts of Virginia, North Carolina, and Tennessee; the Tennessee Conference, comprising most of the State of Tennessee except the western portion; the Memphis Conference, comprising west Tennessee and north Mississippi; the Missouri and St. Louis Conferences, comprising the State of Missouri; the Arkansas Conference, comprising the State of Arkansas; and the Indian Mission Conference, comprising western Arkansas and the Indian Territory west thereof. The said delegates representing said conferences met at the appointed place in the city of Louisville on the said 6th day of April, 1864, and organized themselves in the usual way, or as nearly so as practicable, into a general convention of the Methodist Episcopal Church South. The said convention in the regular way appointed this affiant its secretary, in which capacity he then and there acted. The late Rev. Charles B. Parsons, D. D., of Kentucky, was in like manner chosen and acted as president of the convention. The convention declared itself to be "delegates to the convention, and representing loyal members of several conferences of the Methodist Episcopal Church South," and that said delegates "do hereby, in the name of and for the loyal members of several conferences of the Methodist Episcopal Church South, assert their right to and claim possession of and the administration of said property for the original foundation of said charity," meaning the Southern Methodist Publishing House, then in charge of Rev. Richard Abbey, financial secretary thereof, and situated in the city of Nashville, Tenn. So the said convention, in the course of its business, sitting and transacting various business pertaining to its legitimate internal affairs during three days, viz, the 6th, 7th, and 8th days of April, 1864, held and avowed itself on several occasions to be a true, legal, and loyal convention of the Methodist Episcopal Church South in and under the Government of the United States, and holding and affirming its original relation thereto. The said convention, in the name and on behalf of the Methodist Episcopal Church South, of which it was a delegated convention, memorialized the President of the United States on matters of interest to said church; which memorials, as far as is known to this affiant, were duly and respectfully considered.

THOMAS M. FINNEY.

Sworn to and subscribed before me this 26th day of November, A. D. 1872.

JOSEPH E. MCGINNIS,
Notary Public, St. Louis County, Mo.

This action of the convention at Louisville was afterwards fully ratified and confirmed by a general conference of the representatives of the entire church, held at New Orleans, in May, 1866, as is more fully seen by the following extract from the journal of said general conference, at pages 90 and 91, viz:

Reports Nos. 2 and 3 of the committee on books and accounts were taken up and adopted, as follows:

2. In regard to sundry papers sent to this committee referring to the action of a convention of preachers held in Louisville, Ky., in April, 1864, and to the action of certain commissioners appointed by that convention, we respectfully report: That, in view of the fact that the members of that convention, representing eight annual conferences, together with the commissioners appointed by them, were acting with the sole design to protect and preserve to its lawful owners the property of the church; and in view of the further fact that the convention and its commissioners did much toward the accomplishment of that very desirable end, the committee recommend that the general conference approve the action and object of said convention, and also direct the agent of our publishing interests to pay the traveling expenses of the commissioners, and also the fee to the lawyer employed by said commissioners.

Respectfully,

D. R. McANALLY.

NEW ORLEANS, *April 16, 1866.*

It can not, therefore, be imputed to this great ecclesiastical body that it took ground against the Government of the United States during the war. That the sympathies of many of its members were in favor of the South is not to be denied; still, it is a question whether the majority of the whole body were not loyal to the Government. Very many of them were loyal in the strictest sense of the word. But the Government of the United States can not justly or wisely adopt a policy that will take from the people, even though they were disloyal, the fruits of a charity which provides them with literary, scientific, and religious instruction, and the means of educating their children, for the purpose of enriching its Treasury. There was no such policy in the war. The arms of the United States could not have been directed against such charities as something worthy of destruction. They were restrained, rather, by section 2, paragraphs 34, 35, and 36 of General Order No. 100, which declare that—

34. As a general rule, the property belonging to churches, to hospitals, or other establishments of an exclusively charitable character, to establishments of education, or foundations for the promotion of knowledge, whether public schools, universities, academies of learning, or observatories, museums of the fine arts, or of a scientific character, such property is not to be considered public property in the sense of paragraph 31; but it may be taxed or used when the public service may require it.

35. Classical works of art, libraries, scientific collections, or precious instruments, such as astronomical telescopes, as well as hospitals, must be secured against all avoidable injury, even when they are contained in fortified places while besieged or bombarded.

36. If such works of art, libraries, collections, or instruments belonging to a hostile nation or Government can be removed without injury, the ruler of the conquering State or nation may order them to be seized and removed for the benefit of the said nation. The ultimate ownership is to be settled by the enduring treaty of peace. In no case shall they be sold or given away, if captured by the armies of the United States, nor shall they ever be privately appropriated or wantonly destroyed or injured.

If reasons have heretofore seemingly existed that would justify Congress in withholding compensation to the claimant, they no longer exist in such form as to require the Government to deny an act of justice to the generation now needing the benefits of this great public charity.

The petitions laid before this committee represent that many of the people of the United States, of all sections, earnestly desire that Congress will give just relief in this matter. It is believed that no private

claim was ever presented to Congress that was so extensively and earnestly supported by various memorials and recommendations. That four are from State legislatures; one from the General Conference of the Colored Methodist Church; others from eight of the bishops of the Methodist Episcopal Church, viz: Bishops Morris, Janes, Simpson, Ames, Bowman, Merrill, Peck, and Haven, and many other ministers of that church; others from the mayor and council of Nashville and of Edgefield, Tenn.; another from the governor and most of the officials, national, State, and municipal, of Nashville; another from Judge Trigg, of the United States court of Nashville; another from all the judges of the supreme court of Tennessee, with its entire bar; another from about two hundred merchants, bankers, and business houses of Nashville; another from the chiefs of the Indian nation west of Arkansas; others from all the annual conferences of the Methodist Episcopal Church South; and others from many of the leading ministers of the Methodist Episcopal Church, chiefly in New York, Baltimore, Washington, etc.; and others from nearly a hundred colleges and high schools in many parts of the country, and still others from about three thousand individual petitioners in about one hundred cities and towns in twenty-five States. These last include about one hundred and twenty governors, ex-governors, judges, and Members of Congress, and fully five hundred other prominent men in civil office, the remainder being mostly lawyers, doctors, and clergymen of all denominations, and other substantial citizens, white and colored, and including all religious beliefs—Jews, Catholics, and Protestants. The papers laid before the committee substantially support these statements. These memorials indicate a sentiment which is honorable to the people and most gratifying to all who desire that our past differences may cease to be remembered as causes of present or future discord, but may only be adverted to as admonitions to warn us against like evils.

The separation of the Methodist Church, and of the Baptist and Presbyterian churches as well, into Northern and Southern wings, was the result of differences as to the moral and religious aspect of African slavery. It was nearly twenty years after the first fissure was disclosed in those great religious organizations until the political institutions of the country were thrown into disorder and division by the same questions. A great number of those who believed in the morality and constitutionality of slavery did not believe that its preservation was worth the cost and suffering of war, or that secession was a rightful remedy. These were Union men as well as proslavery men, and when they resided in parts of the country where their views were favored they were openly opposed to the Confederate States in the war. It is doubtful whether there was a majority of the Methodist Episcopal Church South that were, in sentiment or in political affiliation, disunionists. But however this may have been, as the division of sentiment in this great denomination of Christians was among the first heralds of approaching discord, war, and ruin, so their approaching reunion is a most gratifying proof that we have survived these dangerous troubles, and that the public sentiment, which is so perfectly reflected in their conduct and dealing with each other, has settled down with genuine satisfaction to the work of accomplishing the full and cordial reconciliation of the people throughout the country.

Your committee believe that the passage of the bill which they report and recommend will greatly encourage and assist in completing this good work. Your committee are aware that objections to this bill will be urged which are apparently strong and well worthy of consideration,

but they believe that they are met by the facts and views of the law already presented in this report. Your committee do not, therefore, attempt to answer in detail these objections in this report. The majority of the committee believe that the law of the land, justice to a large and helpless class of people, a magnanimous spirit on the part of the Government toward the beneficiaries in a great charity which has been injured through its action, popular sentiment North and South, and the heartfelt desire of the people throughout the country for a perfect restoration of peace and amity between them, all concur in supporting the recommendation which they have the honor to submit, that Congress will pass the accompanying bill.

Your committee have anxiously considered how far their recommendations may be drawn into precedent and become an invitation to other claimants to press upon the country their demands for indemnity for losses during the war. We believe that there can be no other case like this in its essential features. The nature of the charity as an educational agency, its freedom from mere personal advantage to those who manage it, its usefulness in disseminating knowledge through the poorer classes of our population, and the fact that the Government in the use of its property saved a large expenditure of money which otherwise would have been unavoidable, and the further and important fact that when this property was seized by military orders it was in the custody of the United States circuit court and was entitled to the protection of the law, seem to furnish reasons which are satisfactory to justify Congress in treating this as an exceptional case.

Your committee report the following proofs submitted to them, touching the material facts in the case, numbered from 1 to 20, inclusive. Other testimony was submitted, which it is not considered necessary to print:

EXHIBIT 1.

THE UNITED STATES OF AMERICA	}
v.	
THE SOUTHERN METHODIST PUBLISHING HOUSE, its types, &c.	

Transcript of record from the circuit court of the United States for the middle district of Tennessee.

MIDDLE DISTRICT OF TENNESSEE, ss:

At a circuit court of the United States, begun and held at the capitol of said State, in the city of Nashville, within and for the district aforesaid, on the third Monday, being the sixteenth day of October, in the year of our Lord eighteen hundred and sixty-five, and the ninetieth year of the Independence of the United States.

Present, the Honorable Connally F. Trigg, United States district judge for the several districts of Tennessee; present also, Edwin R. Glascock, marshal of said district, and Edward R. Campbell, clerk of said court.

The following proceedings were had, to wit:

On the 24th day of May, 1862, a libel of information was filed in said court, which is as follows:

Circuit court of the United States for the district of middle Tennessee.

To the judges of the circuit court of the United States for the district of middle Tennessee:

John Trimble, attorney of the United States for the said district, who prosecutes for the United States, exhibits this his libel of information against a certain lot and the buildings thereon, situated near the northeast corner of the public square in the city of Nashville, fronting on said square, being the large building adjoining the City Hotel known as "The Southern Methodist Publishing House," in which have been printed a variety of publications, among which were the Nashville Christian Advocate, a newspaper, and the Confederate Almanac, and divers other publications; and

also against all the type, presses, machinery of every description, and implements and fixtures of every character connected with the said house or lot, or attached to the property; and against all persons lawfully intervening for their interests therein.

And thereupon the said John Trimble doth allege, articulately propound, and give the said judge to understand that on the first day of January, in the year of our Lord eighteen hundred and sixty-two, at Nashville, in the district aforesaid, on land, the said property was knowingly used and employed by the owners, and with the consent of said owners of said property, in aiding, abetting, and promoting an insurrection against the Government of the United States.

First. For that heretofore, to wit, on the first day of January, 1862, and after the proclamation of the President of the United States referred to in the act of Congress entitled "An act to confiscate property used for insurrectionary purposes," approved August 6, 1861, the said property hereinbefore described was knowingly used and employed, in the district aforesaid, by the owners thereof, and with the consent of said owners, in aiding, abetting, and promoting an insurrection or resistance to the laws of the United States.

Secondly. For that heretofore, to wit, on the day and year aforesaid, at, to wit, in the district aforesaid, and after the proclamation aforesaid, the said property was knowingly used and employed by the owners aforesaid, and with the consent of the owners thereof, in aiding, abetting, and promoting persons engaged in said rebellion and resistance to the laws of the United States, in this, that at the time above specified, and at divers times previous thereto, said Southern Methodist Publishing House did publish various articles and numerous publications aiding and abetting and promoting said insurrection or resistance to the laws of the United States.

The said attorney of the United States, upon behalf of the said United States, saith that all and singular the premises are true.

Wherefore he prays that process in due form of law issue against the house and lot, type, machinery, implements, etc., to enforce the seizures, confiscations, and condemnations thereof, and requiring notice to be given to all persons concerned in interest to appear and show cause, on the return day of said process, why the forfeiture should not be decreed.

JOHN TRIMBLE,

Attorney of the United States for the Middle District of Tennessee.

On the 24th day of May, 1862, a warrant of arrest was issued, which is as follows:

MIDDLE DISTRICT OF TENNESSEE:

The President of the United States to the marshal for the middle district of Tennessee, greeting:

Whereas a libel of information hath been filed in the circuit court of the United States for the middle district of Tennessee on the 24th day of May, 1862, by John Trimble, esq., attorney of the United States for the said district, on behalf of the United States of America, against a certain lot and the buildings thereon, situated near the northeast corner of the public square, in the city of Nashville, fronting on the public square, being the large building adjoining the City Hotel, and known as the Southern Methodist Publishing House; and also against all the type, machinery, presses, implements, and fixtures of every description connected with the said house and lot or attached to said property, for reasons and causes in said libel of information mentioned, and praying that the usual process and monition of said court in that behalf to be made, and that all persons interested in the said house and lot, type, presses, implements, and fixtures may be cited in general and special to answer the premises; and all due proceedings being had, that the house and lot, type, machinery, presses, implements, and fixtures may be, for the causes in said libel of information mentioned, condemned, and the proceeds thereof distributed according to law.

You are therefore hereby commanded to attach the said house and lot, type, machinery, presses, implements, and fixtures, and to detain the same in your custody until the further order of the court respecting the same, and to give due notice to all persons claiming the same, or knowing or having anything to say why the same should not be condemned as forfeited and the proceeds thereof distributed according to the prayer of the said libel of information; and that they be and appear before the said court to be held in and for the middle district of Tennessee, on the first Monday, being the 6th day of October next, in the forenoon of that day, then and there to interpose a claim for the same, and to make their allegations in that behalf; and what you have done in the premises do you then and there make return thereof together with this writ.

Witness the honorable Roger B. Taney, chief-justice, at Nashville, in the middle district of Tennessee, this the 24th day of May, in the year of our Lord 1862, and of the Independence of the United States the eighty-sixth year.

{ SEAL OF THE U. S. CIRCUIT COURT }
{ MIDDLE DISTRICT OF TENNESSEE. }

HORACE H. HARRISON, *Clerk*

Upon the back of the said warrant of arrest is indorsed the return of the marshal, which is as follows:

Came to hand the same day issued. In obedience to the within warrant I have arrested a lot with the buildings thereon, situated near the northeast corner of the public square, in the city of Nashville, fronting on the public square, and known as "The Southern Methodist Publishing House," and all the type, machinery, presses, implements, and fixtures of every description connected with the said house or lot, or attached to said property within mentioned, and have cited all persons having or pretending to have any right, title, or interest therein, as by said warrant I am commanded to do.

Dated at Nashville the 26th day of May, 1862.

E. R. GLASCOCK,
United States Marshal Middle District Tennessee.
By W. LELLYET,
Deputy Marshal.

On the 3d day of June, 1862, a claim was filed in said court, which is as follows:

THE UNITED STATES	}
v.	
A CERTAIN LOT AND THE BUILDINGS THEREON, SITUATED near the northeast corner of the public square, in the city of Nashville, fronting on the public square, being the large building adjoining the City Hotel, and known as "The Southern Methodist Publishing House," and all the type, machinery, presses, implements, and fixtures of every description connected with the said house or lot or attached to said property.	

The "Book Agents of the Methodist Episcopal Church South," a corporation created for literary and religious and charitable purposes by the legislature of the State of Tennessee, by act passed the 26th February, 1856, chapter 136, sections 1 and 2, through Richard Abbey, one of its authorized agents, states that the said corporation is the true and bona fide owner of all of the aforesaid property above described and seized under and by virtue of the warrant in this case, and that no other person is the owner thereof; that the place of business of the said corporation is the city of Nashville, in the State of Tennessee, and that the said Abbey is a citizen of the United States and of the State of Tennessee.

And the said corporation, Book Agents of the Methodist Episcopal Church South, pray to be made a defendant to this cause, being the claimant of said property, with leave to file any plea, answer, or demurrer to the proceedings, or to make any such motions as may be advised by its counsel.

The personal property seized in this cause would not probably sell for more than sixty thousand dollars, but its actual value can not be accurately stated.

The said claimants pray to be allowed to file the bond specified in No. 9 of the rules of this court, and to replevy said personal property according to said rules, and to be restored to the use and occupation of said real estate.

Personally appeared in open court Richard Abbey and made oath that the facts set forth in the foregoing statements are true to the best of his knowledge and belief; that he is agent of claimants, "Book Agents of the Methodist Episcopal Church South," and fully authorized to file the above claim.

R. ABBEY.

Sworn to and subscribed before me this 3d day of June, 1862.

H. H. HARRISON, *Clerk.*

On the 3d day of June, 1862, a bond for costs was filed by claimants, which is as follows:

Know all men by these presents, that we, R. Abbey, agent, and John W. Hunter, are held and firmly bound unto the United States of America in the sum of two hundred dollars, lawful money of the United States, to be paid to the said United States, for which payment well and truly to be made we bind ourselves and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents, sealed with our seals and dated this 3d day of June, 1862.

Whereas an information has been filed in the circuit court of the United States of America for the district of Middle Tennessee, at Nashville, on the 24th day of May, 1862, by John Trimble, esq., attorney of the United States for the district aforesaid, against "The Southern Methodist Publishing House, its type, machinery, imple-

ments, and fixtures," more particularly described in the information and monition in the above-entitled suit, for reasons and causes in the said information mentioned, and praying that the same may be condemned as forfeited to the uses in said information specified;

And whereas, also, a claim has been filed in said court by R. Abbey, as agent of "The Book Agents of the Methodist Episcopal Church South," "alleging that they are the owners of the said lot and buildings thereon, situated near the northeast corner of the public square in the city of Nashville, fronting on the public square, being the large building adjoining the City Hotel, and known as 'The Southern Methodist Publishing House,' and all the type, machinery, presses, implements, and fixtures of every description connected with said house or lot, or attached to said property:"

Now, therefore, the condition of this obligation is such, that if the said R. Abbey, agent, or John W. Hunter, or either of them, shall defend the prosecutions thereof and respond in costs in case the said R. Abbey, agent, shall not support his said claim, then this obligation to be void; otherwise to remain in full force and virtue.

R. ABBEY, *Agent*. [SEAL.]
JOHN W. HUNTER. [SEAL.]

On the 4th day of June, 1862, a replevy bond was filed by the claimant, which is as follows:

Circuit court of the United States for the middle district of Tennessee.

THE UNITED STATES OF AMERICA	}	Libel of information, No. 8.
v.		
THE LOT AND BUILDING THEREON KNOWN AS THE SOUTHERN Methodist Publishing House, and the presses, type, machinery, fixtures, and implements connected with the said house or lot or attached to said property.		

Know all men by these presents that we, Richard Abbey, agent of "The Book Agents of the Methodist Episcopal Church South," and Richard Abbey and William R. Elleston, are held and firmly bound unto the United States of America in the sum of \$60,000, lawful money of the United States, to be paid to the said United States, for the payment of which, well and truly to be made, we bind ourselves and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals and dated this 4th day of June, A. D. 1862.

Whereas an information has been filed in the circuit court of the United States of America for the district of middle Tennessee, at Nashville, on the 24th day of May, 1862, by John Trimble, attorney of the United States for the district aforesaid, against the lot and building thereon known as the Southern Methodist Publishing House, and the presses, types, machinery, fixtures, and implements of the said publishing house more particularly specified in the information and monition in the above-entitled suit, No. 8, for reasons and causes in the said information mentioned, and praying that the same may be condemned as forfeited to the uses in said information specified;

And whereas also a claim has been filed in said court by the said "Book Agents of the Methodist Episcopal Church South" as owners of the said property, to wit, of the said lot and building thereon, situated near the northeast corner of the public square, in the city of Nashville, fronting on said square, being the large building adjoining the City Hotel, known as the Methodist Publishing House, and also the type, presses, machinery of every description, implements, and fixtures of every character connected with the said house and lot or attached to said property;

And the said claimants having obtained an order from the circuit court of the United States for a redelivery of said property and a delivery of the possession of said real estate to the said claimants upon the execution of this bond:

Now, if the property seized as aforesaid shall be forthcoming, if so ordered by the court on the final hearing of this cause, to be subject to the decree or decrees to be pronounced in said cause, then this obligation to be void; otherwise to remain in full force and effect.

R. ABBEY, *Agent*.
R. ABBEY. [SEAL.]
W. R. ELLESTON. [SEAL.]

On the 27th day of June, 1862, a motion and affidavit was filed in said court by W. R. Elleston, which is as follows:

THE UNITED STATES	}
v.	
A CERTAIN LOT AND BUILDING THEREON, SITUATED NEAR the northeast corner of the public square, in the city of Nashville, fronting on the public square, being a large building adjoining the City Hotel, and known as the Methodist Publishing House; and also against all the type, machinery, presses, implements, and fixtures of every description connected with said house or lot or attached to said property.	

In this cause William R. Elleston makes oath that he became a surety on the replevy bond given for the replevy of the property attached in this cause under rule No. 9, adopted by this court.

The bond is in the sum of \$60,000, and is also signed by R. Abbey, the only cosecurity.

He states that said cosecurity has rented out some of the machinery, including a press, type, etc., to other persons without deponent's consent or knowledge and against his wish, and he fears it will be so used that if destroyed or misused he will be liable upon his bond, without his consent to the misuse.

He is willing to remain liable for the forthcoming of the property if he and his cosecurity can be permitted to hold it in the state in which it was when seized in this case. But his cosecurity has not so acted, but has placed a part of the property beyond his own control, where it may be destroyed and deponent made responsible for the acts of others and against his consent.

He therefore prays that the said Abbey have notice of this proceeding, that this deponent be released as surety on his said bond, and the property be redelivered to the marshal, to be held subject to the decision of the court in this cause, unless the said Abbey or his principal, the "Book Agents of the Methodist Episcopal Church South," will give other security.

W. R. ELLESTON.

Sworn to and subscribed before me this 27th June, 1862.

HORACE H. HARRISON, *Clerk.*
By E. R. CAMPBELL, *D. C.*

Notice to R. Abbey on above motion, given June 27, 1862.

To R. ABBEY, *Agent of the Methodist Publishing House South:*

You are hereby notified that a motion has been made by W. R. Elleston to be released from the bond given for the redelivery of the property of the Methodist Publishing House South on account of the renting out of a portion of the property without his consent.

You are therefore notified to be and appear before the circuit court of the United States for the middle district of Tennessee on June 28, 1862, at 11 o'clock in the forenoon of that day.

HORACE H. HARRISON, *Clerk.*
By E. R. CAMPBELL, *D. C.*

(Indorsed:) Came to hand same day issued. Executed by making known to R. Abbey the contents and leaving a copy of summons or notice with him.

June 27, 1862.

E. R. GLASCOCK, *United States Marshal.*
By W. LELLYETT, *Deputy.*

(Upon the back of the affidavit and motion of W. R. Elleston, before set out, is the following indorsement:)

On consideration of the motion founded on this affidavit I refuse to release William Elleston as a surety to this bond.

June 28, 1862.

J. CATRON, *Presiding Judge.*

On the 20th day of April, 1864, an amended information was filed, which is as follows:

Circuit court of the United States for the middle district of Tennessee. April term, 1864.

And now comes Horace H. Harrison, esq., attorney of the United States for said district, who prosecutes herein in the name and on behalf of the said United States, and by leave of the court, obtained at the October term, 1863, and propounds as fol-

lows in addition to and as an amendment to his original information, No. 8, filed in this court:

The said attorney, by way of amendment, brings this information against all the types, presses, machinery of every description, and implements and fixtures connected with or used by "The Book Agents of the Methodist Episcopal Church South" in its publishing house in the public square in the city of Nashville. Also against all the right, title, interest, and estate of the said "Book Agents of the Methodist Episcopal Church South" in a lot of land in the city of Nashville, in the district aforesaid, on the public square in said city, more particularly described in the deed to said lot to said book agents, a duly certified copy of which is herewith filed and made a part hereof, and the buildings and improvements, and all the hereditaments belonging and appertaining to said lot known as the Southern Methodist Publishing House, and against all persons lawfully intervening for their interests therein.

And thereupon the said attorney of the United States doth now allege, articulately propound, and give the judge of said court to understand and be informed that the said personal property has been heretofore seized in this cause before the filing of the original information, and the right, title, interest, and estate of the book agents of the Methodist Episcopal Church South was seized or levied on the 20th day of April, 1864, upon an order of seizure issued by the said attorney of the United States in pursuance of instructions from the Attorney-General of the United States, and the same is now in the custody of the marshal of said district, seized as aforesaid, as forfeited to the United States for the causes following, to wit:

First. For that heretofore, to wit, at Nashville, in the district aforesaid, on the 1st day of January, 1862, and on divers other days before and since the day last aforesaid, and after the passage of the act of Congress, approved on the 6th day of August, 1861, entitled "An act to seize and confiscate property used for insurrectionary purposes," and after the public warning and proclamation provided to be given and made by the President of the United States, by the first section of the act of Congress aforesaid, had been duly given and made, and during the insurrection and resistance to the laws mentioned in said act, the said property herein described was knowingly used, or employed by the owners thereof, to wit, by a certain person or corporation called the "Book Agents of the Methodist Episcopal Church South," in aiding, abetting, and promoting the insurrection and resistance to the laws mentioned in said act of Congress, or persons engaged therein.

Second. That heretofore, to wit, at Nashville, in the district aforesaid, on the first day of January, 1862, and on divers other days, before and since the day last aforesaid, and after the passage of said act of Congress, and after the said public warning and proclamation had been duly given and made by the President of the United States, as provided by the act of Congress aforesaid, and during the insurrection against the Government of the United States mentioned in said act of Congress, the said owner of said property heretofore described, to wit, the said "Book Agents of the Methodist Episcopal Church South," consented to the use or employment of said property in aiding, abetting, or promoting such insurrection or resistance to the laws or persons engaged therein. By means whereof, and by force of the statute in such case made and provided, the said property became forfeited to the United States, and liable to seizure, confiscation, and condemnation.

Third. That all and singular the premises are true.

Wherefore the said attorney of the United States prays that all proper process upon the filing of this amended information issue, including the usual monitions warning all persons claiming or pretending to have any interest in said property to appear on the second Monday in May, 1864, to show cause, etc., and to make their allegations, etc.; that the said personal property, and all the right, title, estate, and interest of the "Book Agents of the Methodist Episcopal Church South" in the real estate herein described be sold, and the proceeds, after paying costs and allowances, be paid over to the use of the United States, and that the court will make all necessary orders and decrees herein as to law and justice may appertain.

HORACE H. HARRISON,

Attorney of the United States for the Middle District of Tennessee.

On the 20th day of April, 1864, an order of seizure was issued by the attorney of the United States for the middle district of Tennessee, which, together with the return of the United States marshal for said district thereon, is as follows, to wit:

OFFICE OF THE ATTORNEY OF THE UNITED STATES

FOR THE MIDDLE DISTRICT OF TENNESSEE,

Nashville, Tenn., April 20, 1864.

The marshal of the United States for said district will seize all the right, title, claim, and interest of the "Book Agents of the Methodist Episcopal Church South" in the Southern Methodist Publishing House lot in the city of Nashville and district aforesaid, and you will make return to me and notify the tenant, if any, in possession.

HORACE H. HARRISON,

Attorney of the United States for the Middle District of Tennessee.

RETURN OF THE MARSHAL INDORSED ON SAID ORDER.

Came to hand 20th April, 1864, and executed by seizing all the right, title, claim, and interest of the Book Agents of the Methodist Episcopal Church South in the Southern Methodist Publishing House lot in the city of Nashville, and gave notice to R. Abbey, agent, the tenant.

April 20, 1864.

E. R. GLASCOCK,
Marshal Middle District of Tennessee.

On the 30th day of April, 1864, a demurrer to the original and amended information was filed by the claimants, which is as follows:

THE UNITED STATES
v.
THE LOT AND BUILDING KNOWN AS THE SOUTHERN METHOD-
odist Publishing House, and the presses, type, machinery,
fixtures, and implements connected with the same.

And the said Book Agents of the Methodist Episcopal Church South come into court by attorney and say that the information and amended information filed in this cause and the matters therein contained are not sufficient in law, and that the said defendant is not bound by the law of the land to answer the same, and this the defendant is ready to verify; wherefore, for want of a sufficient information in this behalf, said defendant prays judgment, and that by the court the said information and amended information be dismissed and the defendant be discharged from the premises therein specified.

RUSSELL HOUSTON, *Proctor.*

JOINDER IN DEMURRER.

And the said United States, by Horace H. Harrison, attorney of the United States, come and say that the said information is sufficient in law.

Wherefore the said United States prays the judgment of the court, etc.

HORACE H. HARRISON,
Attorney of the United States for the Middle District of Tennessee.

On the 9th day of May the plea of Myers, Hunt & Co. was filed in said cause, which is as follows:

THE UNITED STATES OF AMERICA
v.
A CERTAIN LOT OF PRESSES, MACHINERY, ETC., SEIZED BY
the marshal in the Southern Methodist Publishing House,
in the city of Nashville, Tenn., and now in the circuit
court of the United States for the middle district of
Tennessee.

Abram Myers, Wm. S. Hunt, and Michael Powers, partners, trading under the firm name and style of Myers, Hunt & Co., citizens of the United States and of the State of Tennessee, residents of Davidson County, in said State, make oath and represent to the honorable court that they are the true and bona fide of the following property, to wit:

One extra large iron lathe, worth \$850; 1 other large iron lathe, worth \$300; 1 large iron lathe, worth \$125; 1 bench cutter and machinery to same, with gear complete, worth \$75; 1 large grindstone with frame, worth \$40; 3 iron vises, worth \$12 each, \$36; 1 drill press, with machinery and gear complete, worth \$150; 1 lot of small tools, hammers, chisels, etc., worth \$75; which have been seized and attached by the marshal of said court upon the warrant of said court, and now held by said marshal and embraced in the libel aforesaid, and that no other person is the owner thereof; that the aggregate value of said property is about \$1,801.

They therefore pray that they may be made defendants and claimants of said property so seized and attached as aforesaid; that the said property so seized and held by said marshal be delivered to them upon their giving bond, etc., to have the same forthcoming according to the order and judgment of the court; and for their defense in this cause that they be authorized and permitted to make any motion, file any plea, demurrer, or answer to which they may be advised by counsel.

ABRAM MYERS.
M. POWERS.

JNO. S. BRIEN,
Counsel for Claimants.

Subscribed and sworn to before me this 9th day of May, 1864.

E. R. CAMPBELL, *Clerk.*

On the 3d day of June, 1862, an entry was made on the minutes of said court, which is as follows:

THE UNITED STATES

v.

A CERTAIN LOT AND THE BUILDINGS THEREON, SITUATED near the northeast corner of the public square in the city of Nashville, fronting on the public square, being the large building adjoining the City Hotel, and known as "the Southern Methodist Publishing House," and all the type, machinery, presses, implements, and fixtures of every description connected with the said house and lot or attached to said property.

This day the "Book Agents of the Methodist Episcopal Church South," a corporation created by the legislature of Tennessee through Richard Abbey, one of the authorized agents, who is a citizen of the United States and the State of Tennessee, came into court and made oath that the said corporation is the bona fide owner of said property, and that no other person is the owner; that the place of business of said corporation is the city of Nashville, in the State of Tennessee, and the said corporation "Book Agents of the Methodist Episcopal Church South" ask to be made defendants to this cause, being the claimants of said property, with leave to file any plea, answer, or demurrer to the proceedings, or to make any motions as it may be advised to make, any motion consistent with the rules of practice of this court, which is granted upon the execution of the bond for costs which is due.

And thereupon the said corporation, through its agents aforesaid, pray that the said corporation be permitted to replevy the said type, machinery, presses, implements, and fixtures connected with the said house or lot attached to said property, and to have the possession of the real estate delivered over by the marshal upon the execution of the bond provided for in rule No. 9, adopted by this court on the 27th May, 1862.

Which prayer is granted, and the said property will be redelivered upon the execution of a bond conditioned as provided in said rule.

On the 5th day of May, 1863, an order was entered in said court, which is as follows:

THE UNITED STATES

v.

THE SOUTHERN METHODIST PUBLISHING HOUSE,
type, presses, machinery, etc.

On application of the attorney of the United States, who prosecutes herein, it is ordered that the cause be continued until the next term.

On the 6th day of November, 1863, an entry was made on the minutes, which is as follows:

THE UNITED STATES

v.

THE GUN FACTORY.

THE UNITED STATES

v.

THE UNION AND AMERICAN NEWSPAPER.

THE UNITED STATES

v.

THE REPUBLICAN BANNER.

THE UNITED STATES

v.

THE NASHVILLE GAZETTE.

THE UNITED STATES

v.

LOTS NOS. 1, 2, 3, 22, AND 24, ON COLLEGE HILL,
used in manufacturing cannon.

THE UNITED STATES

v.

THE SOUTHERN METHODIST PUBLISHING HOUSE.

THE UNITED STATES

v.

THE BAPTIST PUBLISHING HOUSE.

THE UNITED STATES
v.
THE NASHVILLE PATRIOT NEWSPAPER. }

THE UNITED STATES
v.
THE LOT AND BUILDINGS CORNER CHERRY AND
Franklin streets, used in making gunpowder. }

THE UNITED STATES
v.
THE POWDER MILLS OF WATSON & VEDDER. }

THE UNITED STATES
v.
ELLIS & MOORE FOUNDRY. }

THE UNITED STATES
v.
BRANNAN'S FOUNDRY. }

In the foregoing causes, on application of the attorney of the United States, leave is granted to amend the information and proceedings therein, and a copy of said amended proceedings will be delivered by the marshal to the claimants or defendant of record in any of said causes on or before the first Monday in February next.

On the 22d day of November, 1864, an entry was made on the minutes, which is as follows:

THE UNITED STATES
v.
THE SOUTHERN METHODIST PUBLISHING HOUSE. }

This cause is ordered to be continued until the next term.

On the 28th day of October, 1865, an entry was made on the minutes, which is as follows:

THE UNITED STATES
v.
THE NASHVILLE GUN FACTORY. }

THE UNITED STATES
v.
LOTS NOS. 1, 2, 3, 22, AND 24, COLLEGE HILL,
Nashville. }

THE UNITED STATES
v.
THE METHODIST PUBLISHING HOUSE. }

THE UNITED STATES
v.
LOTS USED IN MAKING POWDER, CHERRY ST. }

THE UNITED STATES
v.
THE POWDER MILLS OF WATSON & VEDDER. }

THE UNITED STATES
v.
BRENNAN'S FOUNDRY. }

On the 23d day of October, 1865, an entry was made on the minutes which is as follows:

This day the attorney of the United States for this district announced to the court that under the instructions of the Attorney-General of the United States he was directed to continue and omit all further proceedings in all cases under the acts of Congress commonly called the "confiscation acts" pending and undetermined in this district until further instructions from the office of the Attorney-General, and thereupon moved the court to continue all of said causes.

Upon consideration thereof, it is ordered by the court that the above causes, being all the causes in this court pending and undetermined under said act of Congress, be continued.

On the 23d day of October, 1865, an entry was made on the minutes which is as follows:

THE UNITED STATES
v.
THE SOUTHERN METHODIST PUBLISHING HOUSE, ETC. }

Came the attorney of the United States, and the claimants, by their attorney; and the demurrer being solemnly argued, it is considered by the court that the said demurrer be overruled, with permission for the claimant to rely upon the matters raised by the demurrer on the trial of the cause.

On the 13th day of November, 1865, an entry was made on the minutes which is as follows:

THE UNITED STATES
v.
THE SOUTHERN METHODIST PUBLISHING HOUSE, ETC. }

Came the United States attorney, and the claimants, by their attorney, and, by direction of the Attorney-General of the United States, the said attorney says that he will no further prosecute herein.

It is therefore considered by the court that the information and proceedings in this cause be dismissed, and the property therein seized be restored to the claimant on payment by them of the costs and allowances in said cause. And the court allows to John Trimble, former United States attorney, the sum of \$100; to Horace H. Harrison, present United States attorney, \$50; to the marshal, \$250; and to the clerk, \$100, for their services in this cause, for which let fi. fa. issue.

A certificate of probable cause of seizure is hereby awarded in this cause to the persons concerned therein.

UNITED STATES OF AMERICA,
Middle District of Tennessee, ss:

I, Edward R. Campbell, clerk of the circuit court of the United States for the middle district of Tennessee, do hereby certify that the foregoing is a true and perfect transcript of the record and proceedings had in said court in the cause of the United States against The Southern Methodist Publishing House, etc., as the same appears on record and from the files remaining in my office.

In testimony whereof I have hereto set my hand and affixed the seal of said court, at Nashville, in said district, this 12th day of November, 1877.

[SEAL.]

E. R. CAMPBELL,
Clerk United States Circuit Court.

AFFIDAVIT OF BREVET LIEUT. COL. A. W. WILLS.

Personally appeared before me, Josiah Ferriss, a notary public in and for the county of Davidson, State of Tennessee, A. W. Wills, a person well known to me, who, being duly sworn, deposes and says that in the late war of the rebellion he was an officer in the Federal Army, brevet lieutenant-colonel and assistant quartermaster, stationed at Nashville, Tenn., in the years 1864 and 1865, and was detailed under command of General J. L. Donaldson, chief quartermaster of the Army of the Cumberland, and placed in charge of the Southern Methodist Publishing House, in said city of Nashville, then recently seized by the United States Army, by order of the late Major-General Thomas, and used as a Government printing house for the said Army of the Cumberland. Affiant had immediate charge of said printing house from about 1864 until about or near the close of the year 1865, when it ceased to be used by the Army.

Affiant further states that the demand for Army printing increased greatly and much beyond the general anticipation, and this Methodist publishing house being the only large establishment of the sort in the South known to this affiant, and it being impracticable to procure suitable printing machinery from the North in suitable time to meet these demands and necessities, the said publishing house was of very great, if not almost or quite essential, service to the Army of the Cumberland.

And this affiant further states that in consequence of and by the use of the large and ample machinery, extensive buildings, type and printing materials of the said publishing house he was enabled to furnish the Army printing at an immense saving of money to the Government, as his reports to the proper department will more fully show.

A. W. WILLS.

The above statement is made by me at the request of R. Abbey, esq., agent of the corporation. The facts therein contained are a matter of record among my reports on file in the office of the Quartermaster-General, United States Army, at Washington, D. C.

A. W. WILLS.

Sworn to and subscribed before me this September 20, 1873.

[NOTARIAL SEAL.]

JOSIAH FERRISS, *Notary Public.*

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 16, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the Forty-fourth Congress of the House of Representatives, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 16th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War Claims of the House of Representatives.

AFFIDAVIT OF THOMAS D. FITE.

STATE OF TENNESSEE, *Davidson County*:

Personally appeared before me, Josiah Ferriss, notary public in and for the said county and State, Thomas D. Fite, a man well known to me, who, being duly sworn, deposes and says that he is a wholesale dry goods merchant and property holder in the city of Nashville, State of Tennessee; that he has been a merchant in said city for twenty years, and is well acquainted with the property in said city of Nashville known as the Southern Methodist Publishing House, and that according to his best judgment the lot and building thereon owned and occupied by said publishing house, and which was taken and used by the United States Army in the years 1864 and 1865, was in 1864 worth \$150,000 at a fair estimate and valuation.

THOS. D. FITE.

Subscribed and sworn to before me the 1st October, 1872.

[NOTARIAL SEAL.]

JOSIAH FERRISS, *Notary Public.*

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War Claims of the House of Representatives.

AFFIDAVIT OF A. L. P. GREEN.

STATE OF TENNESSEE, *Davidson County*:

Personally appeared before me Josiah Ferriss, a notary public in and for the county of Davidson and State of Tennessee, the Rev. Alex. L. P. Green, D. D. a man well known to me, who, being duly sworn, and says that he is, and has been for more than thirty years, a citizen of Nashville, Tenn., or its immediate vicinity, and a considerable owner of real estate in said city; that he is familiarly acquainted with the property in said city known as the Southern Methodist Publishing House, he having assisted in the purchase and fitting up of the same; and he believes a just and fair estimate of the value of said property—that is, the ground and buildings thereon—in 1864, to be \$150,000.

A. L. P. GREEN.

Subscribed and sworn to before me this 1st day of October, 1872.

[NOTARIAL SEAL.]

JOSIAH FERRISS, *Notary Public.*

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War Claims of the House of Representatives.

AFFIDAVIT OF WILLIAM R. WARREN.

STATE OF TENNESSEE, *Davidson County*:

Personally appeared before me, Josiah Ferriss, notary public in and for the county of Davidson, Tenn., the Rev. William R. Warren, a man well known to me and of undoubted respectability and credibility, who, being duly sworn, deposes and says that for several years previous to 1864 he was chief clerk in one of the front stores

and salesrooms of the Southern Methodist Publishing House, situate in the city of Nashville, Tenn.; that said publishing house was a very large one, as this affiant believes one of the largest in the United States, and by far the largest south of the city of Washington, D. C., having two large front stores and several large warerooms, in which were kept large quantities of books, paper, and stationery of all kinds, besides, in the rear of part of the same building, large printing, folding, binding, and stereotyping rooms, with many smaller offices, etc., and that it was all in good order and condition in the month of December, 1863, in the proper custody of Rev. R. Abbey, financial secretary, one of the agents of said house.

Deponent further says that in December, 1863, or January, 1864, this entire establishment was taken possession of by the Army of the United States for the use of the United States by Colonel Donaldson, chief quartermaster or quartermaster-general, and, as deponent understood, by order of Maj. Gen. George H. Thomas.

The back building, or manufacturing department, was converted into a Government printing house for said Army, while the rest of the building, including the front stores and warerooms, were mostly used by the said Army for a Government saddle and harness factory.

This affiant does not know the precise value of the books, paper of various kinds, and general stationery in these front stores and warerooms so taken possession of as above for the use of said army at that time, but he estimates it at \$180,000, according to his best judgment.

This affiant further states that so urgent were the necessities of the army for the immediate occupancy of those stores and warerooms, etc., that much of the merchandise therein was thrown into indiscriminate piles here and there like so much rubbish, there being no place to store it; some of it was removed several times and piled in different places in fruitless attempts to save it from extreme loss and damage. While there was no willful attempt to destroy said property, so far as this affiant knows, it was most of it necessarily damaged in order to clear the rooms for the immediate use of the said army, its necessities being immediate and pressing, as affiant was informed and as it seemed to be.

This affiant, with others formerly employed in the said stores, at the instance and under the direction of the Government officers immediately in command, assisted in endeavoring to save this property from loss; but such were the pressing demands of the army for the immediate use of the rooms, it was impracticable except to a very limited extent.

This affiant further states that he has duly considered the amount of loss and damage to said merchandise, of all kinds, in the manner and for the reasons above stated, and he estimates it at 50 per cent upon the whole value, which estimate he believes to be fair and just.

And this affiant further states he has no means of knowing with accuracy the whole amount of the said stationery, paper, ink, blank books, etc., that was actually taken and used by said army for the benefit of the United States, but he estimates the same according to his best judgment at \$90,000, which estimate he believes approximates accuracy as near as the nature of the case admits of.

W. R. WARREN.

Subscribed and sworn to before me the 1st of October, 1872.

[NOTARIAL SEAL.]

JOSIAH FERRISS, *Notary Public.*

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,

Clerk of the Committee on War Claims of the House of Representatives.

AFFIDAVIT OF JOHN W. HUNTER.

THE STATE OF TENNESSEE, *Davidson County:*

Personally appeared before me, Josiah Ferriss, notary public in and for said county and State, the Rev. John W. Hunter, a man well known to me, who, being duly sworn, deposes and says that he is well acquainted with the Southern Methodist Publishing House, in Nashville, Tenn., its business and general condition, he having been for about eight years employed in the same as head clerk in the principal retail store of the same, prior to the occupation of the said publishing house by the Army of the United States in the years 1864 and 1865.

Affiant further states that when the officers of the U. S. Army took possession of the said publishing house in December, 1863, or January, 1864, deponent does not

remember which, it was done so suddenly, hurriedly, and unexpectedly that it was not practicable to take any inventory or account of the paper, ink, and general stationery so taken by the said Army for the use of the same; but affiant having carefully examined such data as is within his reach, he estimates the same at \$90,000, which estimate approximates exactness as nearly as practicable.

JOHN W. HUNTER.

Subscribed and sworn to before me the 1st October, 1872.

[NOTARIAL SEAL.]

JOSIAH FERRISS, *Notary Public.*

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before the said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,

Clerk of the Committee on War Claims of the House of Representatives.

AFFIDAVIT OF HUGH CARROLL.

THE STATE OF TENNESSEE, *Davidson County:*

Personally appeared before me, Josiah Ferriss, notary public in and for the said county and State, Hugh Carroll, a man well known to me, who, being duly sworn, deposes and says that he is now and for the last sixteen years has been general book-keeper in the Southern Methodist Publishing House, in Nashville, Tenn.; that when the United States Army took possession of the said publishing house and its contents, on or about the 1st day of January, 1864, for a Government printing house and saddle and harness manufactory, it was done so suddenly that no inventory was or could be taken of any part of the merchandise and personal property either in the sales or manufacturing departments of the said publishing house; but from the best data within his knowledge, after a careful examination of the same, he estimates the said merchandise in the front stores, ware and sales rooms, including paper, ink, and everything not pertaining to the manufacturing department, at \$180,000.

And said affiant in like manner estimates the manufacturing implements and machinery, including bindery, types, and all manufacturing material, implements, and machinery so taken possession of by the United States Army, at \$312,000, which estimates this affiant believes to be just and fair and as near exactness as is practicable.

HUGH CARROLL.

Subscribed and sworn to before me the 1st October, 1872.

[NOTARIAL SEAL.]

JOSIAH FERRISS, *Notary Public.*

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,

Clerk of the Committee on War Claims of the House of Representatives.

AFFIDAVIT OF WILLIAM KELSEA.

STATE OF TENNESSEE, *Davidson County:*

Personally appeared before me, Josiah Ferriss, notary public in and for said county and State, William Kelsea, a man well known to me, who, being duly sworn, deposes and says that at and for about nine years previous to December, 1863, when the Army of the United States took possession of the Southern Methodist Publishing House, in Nashville, Tenn., he was the superintendent and manager of the stereotyping department of said publishing house, he being a professional printer and stereotyper by regular apprenticeship and employment, having then worked at the same for more than twenty-five years.

Affiant further states that he was very familiarly acquainted with the stereotype foundry, plates finished and unfinished, as well as all the implements, furniture, machinery, metal of various kinds, etc., in and pertaining to said department of said publishing house at the time it was taken possession of as above by the Army of the United States.

And he further states that when the said Army took possession of said publishing house and foundry there was in the latter considerable quantities of stereotype

plates, some finished and some in the course of manufacture, as well as other material, metal of several kinds, etc., pertaining to the stereotyping business.

He further states that when said Army took possession of said property he, this affiant, had in his possession the keys of the stereotype rooms and minor apartments of the same; that the army printers broke open the doors so locked, as he was informed and presumes, to obtain the metal, implements, etc., therein, for the use of the said Army; and he states that said army printers did take and use said materials, metals, etc., for army purposes.

And this affiant further states that he has recently, in the last few days, made diligent examination, from all the data practicable, of the plates, metal, and material in said foundry department taken possession of by and used for the benefit of the United States; and while he can not state with exactness the value thereof, there being no possible opportunity of taking an inventory of the same, for lack of time, as the property was taken hurriedly and without notice, he estimates the value of the same, from his knowledge as a stereotyper and his recent examination, to be \$4,550.70, which estimate he believes to be fair and just.

WILLIAM KELSEA.

Subscribed and sworn to before me the 1st day of November, 1872.

[NOTARIAL SEAL.]

JOSIAH FERRISS, *Notary Public.*

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,

Clerk of the Committee on War Claims of the House of Representatives.

I am personally acquainted with William Kelsea, and have known him for a number of years. He is a man of integrity and perfectly reliable in any statement he may make.

JOS. S. CARELS,
Chief Clerk Nashville Post-Office.

NASHVILLE, TENN., *November 9, 1872.*

HOUSE OF REPRESENTATIVES,
Washington, December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives, do hereby certify that the foregoing is a true and correct copy of a certificate now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,

Clerk of the Committee on War Claims of the House of Representatives.

AFFIDAVIT OF ROBERT P. SPILLERS.

THE STATE OF TENNESSEE, *Davidson County:*

Personally appeared before me, Josiah Ferriss, notary public in and for the county of Davidson, State of Tennessee, Robert T. Spillers, a man well known to me, who, being duly sworn, deposes and says that by regular apprenticeship he is a printer, and by occupation for five years a superintendent of printers and printing; that he is now the superintendent of the Southern Methodist Publishing House, in the city of Nashville, Tenn., by which office he superintends, controls, and manages the entire printing and manufacturing portions of said publishing house; that he has held this office ever since the United States Army occupied and used the same in the years 1864 and 1865.

Affiant further says that when this publishing house was taken possession of by the United States Army it had capacity for the employment of about two hundred operatives, and was esteemed by competent judges to be a very fine and valuable publishing and book manufacturing house in all its appointments.

And he further states that when said printing implements and machinery were delivered up by the United States it was almost all of it in a seriously injured and damaged condition. Much of the machinery had been broken and otherwise injured, types, cuts, etc., destroyed, or in a confused and useless state. The stereotype foundry was wholly destroyed while in the possession of the Government, or so nearly so that the remaining fragments were practically useless.

This affiant estimates the value of all the manufacturing machinery and implements of said house when the Army took it at \$312,000. He also considers that a fair rent per annum for the use of the same would be 25 per cent on the value thereof.

The affiant further states that he has taken sufficient care to estimate the value of the damage of the same, in consequence of bad and improper usage, and fixes it at 50 per cent on the value thereof.

R. T. SPILLERS.

Subscribed and sworn to before me the 1st October, 1872.

[NOTARIAL SEAL.]

JOSIAH FERRISS, *Notary Public*.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,

Clerk of the Committee on War Claims of the House of Representatives.

AFFIDAVIT OF WILLIAM G. DASHIELL.

STATE OF TENNESSEE, *Davidson County*:

Personally appeared before me, Josiah Ferriss, a notary public in and for said county, William G. Dashiell, a man well known to me, who, being duly sworn, deposes and says that he is, by regular apprenticeship and vocation, an engineer and machinist; that he has been engaged in that business about seventeen years; that he is now in the employment of the city of Nashville, in said State of Tennessee, as chief engineer and machinist to the waterworks of said city; that, as engineer and machinist, he has had charge of the machinery of the same about one year.

And this deponent further says that on or about the 11th day of January, 1864, he was employed by the Army of the United States, known as the Army of the Cumberland, under the command of Maj. Gen. George H. Thomas, and by the chief quartermaster of said Army, Col. J. L. Donaldson, whose headquarters were at said city of Nashville, to take charge of and run the engine, presses, and other machinery of the Southern Methodist Publishing House, so called, in said city of Nashville, then in the service of the United States and used as a printing house for the use of said Army of the Cumberland; that he remained in said service and in charge of said engine and machinery about two full years—so long as the Army used the said machinery. The precise date of his dismissal from said employment is not now remembered.

Deponent further says that when he took charge of said machinery, as it was received from the Rev. R. Abbey, the agent of said publishing house, it was very fine and costly machinery, all in excellent condition and calculated for the manufacture of books and fine printing, which kind of presses and machinery is calculated and intended to run much slower than printing presses for the printing of blanks and the like for army purposes.

Deponent was required by the officers immediately in command to run the said machinery much faster than its proper capacity, and he was still required to run it faster and faster, for that the wants of the Army were pressing for blanks and other printing until he replied to such orders that it was impossible to give the said machinery greater speed without the most imminent danger of tearing it all to pieces and endangering the lives of the operatives working the same; that all the time, or nearly so, that the United States Government used the said machinery, which, as aforesaid, was about two years, it was run beyond its intended capacity, generally at about twenty-five revolutions per minute beyond.

And deponent further says that, in consequence of said machinery being pushed beyond its proper capacity, the presses and other parts of the machinery were frequently broken and otherwise injured. Some of the most valuable presses were broken five or six times. When so broken they were repaired temporarily, so as to answer for the printing of blanks such as the Army required; but in many instances it was impracticable to restore them to their original condition for book printing.

Deponent further says that many of the printers here so engaged in using this machinery, types, etc., were very poor printers, and very incompetent to work in almost any printing office, much less one of such fine and costly implements and machinery as constituted this I now speak of. Moreover many of them were reckless and careless in using the implements, types, etc., and that in consequence of such incompetent workmen the property in question suffered still further damage.

Deponent further says that as engineer and machinist according to his best judgment, he estimates the damage to the aforesaid property because of the pressing demands of the Army and for the reasons above stated, at the time it was so used by the United States Army, at 30 per cent on the value thereof.

Deponent further says that he does not know the precise value of the machinery and property hereinbefore spoken of, for he had no opportunity of making an inventory of the same; but he estimates the same according to his best judgment at the time it was taken possession of by the United States Army as aforesaid at a large value. And he further states that in his best judgment as engineer and machinist he believes a fair and reasonable rent per annum for the use of said property hereinbefore described would be 30 per cent on its value.

And the deponent further states that among the property above spoken of were large quantities of stereotype plates, some finished and ready for use and some unfinished; that considerable quantities of these plates were taken by the Government workmen from time to time and used for Government purposes for metal for various purposes, but this affiant does not know what quantities of such plates were so used.

Deponent further says that among the property so pressed into the service of the United States as aforesaid were three large iron lathes, which were used by the Government during several years as above, and that he considers a fair rent for such lathes to be ———.

WILLIAM G. DASHIELL.

Subscribed and sworn to before me the 1st October, 1872.

[NOTARIAL SEAL.]

JOSIAH FERRISS, *Notary Public*.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,

Clerk of the Committee on War Claims of the House of Representatives.

AFFIDAVIT OF W. F. BANG.

STATE OF TENNESSEE, *Davidson County*:

Personally appeared before me, Josiah Ferriss, notary public in and for the said State and county, William F. Bang, a man well known to me, who, being duly sworn, deposes and says that he is a citizen of Nashville, Tenn., where he is and for twenty-five years has been a master printer, publisher, and proprietor, and is well acquainted with the printing and publishing business; and that he has a good general knowledge of the condition of the Southern Methodist Publishing House in said city of Nashville as it existed in the hands of the Rev. R. Abbey at the time it was taken by the Army of the United States for a Government printing house about the first of the year 1864, and that in his judgment, as printer and publisher, a fair rent for the use of the printing and manufacturing portion of the same would be 20 per cent per annum on the entire value thereof.

W. F. BANG.

Subscribed and sworn to before me the 1st October, 1872.

[NOTARIAL SEAL.]

JOSIAH FERRISS, *Notary Public*.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,

Clerk of the Committee on War Claims of the House of Representatives.

AFFIDAVIT OF JOHN M. HUDSON.

STATE OF TENNESSEE, *Davidson County*:

Personally appeared before me, Josiah Ferriss, a notary public in and for said county and State, John M. Hudson, a man well known to me, who, being duly sworn, deposes and says that by regular apprenticeship he is a printer and machinist in printing machinery, and is accustomed to the control and oversight and management of first-class printing presses and such like machinery.

He further says that he was familiar with the printing machinery, presses, &c., of the Southern Methodist Publishing House in Nashville, Tenn., at and before the occupation and use of the same by the Army of the United States in 1864 and 1865, and that ever since the return of said property by the United States to the Rev. R.

Abbey, the agent of the said publishing house, this affiant has had the charge, management, and control of the said printing presses, engine, machinery, &c., in which occupation he is now engaged.

And affiant further states that when this machinery was returned by the United States to the said R. Abbey, agent, it was all or nearly all in a damaged condition, whereas, when the Government received it, it was all in good order, but when so returned the printing presses had been all broken or otherwise seriously injured. The presses were large and expensive, not intended for job printing, such as the Government required, but for book printing. The army printing would therefore almost necessarily injure them greatly, especially if run at a speed beyond their ordinary capacity. These presses were eight in number, large, and of fine style. Their condition when the army printers left them showed plainly that they had been run at a speed far beyond their capacity.

Affiant further states that his opinion, as printer and machinist, is that the damage to said presses and other implements and machinery in their press rooms from overwork and being applied to classes of work for which they were not well suited to, and by incompetent or careless workmen, was 50 per cent on the value thereof. Much of the machinery can not be restored to its original condition.

This affiant is also of opinion, as printer and machinist, that a fair and reasonable rent per annum for the machinery and implements above spoken of would be 20 per cent on the value thereof.

He further states that a reasonable rent for the use of the large iron lathes belonging to said publishing house, and used by said Army for turning cannon and other metal, would be \$17 per week for each; and further, that when the machinery went into the hands of the Government it was all supplied with a full outfit of belting in good order, all of which was worn out by the Government printers. It was worth—.

Affiant further states that he has been engaged in the said printing business, chiefly as pressman and machinist, for the last twenty years.

J. M. HUDSON.

Subscribed and sworn to before me this 1st October, 1872.

[NOTARIAL SEAL.]

JOSIAH FERRISS, *Notary Public*.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,

Clerk of the Committee on War Claims of the House of Representatives.

AFFIDAVIT OF RICHARD ABBEY.

STATE OF TENNESSEE, *Davidson County*:

Personally appeared before me, Josiah Ferriss, notary public in and for said county and State, Richard Abbey, minister of the gospel, a man well known to me, who, being duly sworn, deposes and says that in May, 1858, he was duly elected by the general conference of the Methodist Episcopal Church South, according to the regular forms and usages thereof, one of the agents and managers of the Southern Methodist Publishing House, so called and known, an eleemosynary and literary corporation, duly chartered by the State of Tennessee, and located and doing its principal business in the city of Nashville, Tenn., the corporate name of which corporation being the Book Agents of the Methodist Episcopal Church South, the office held by this affiant being usually called financial secretary; that after the 17th day of February, 1862, he, the said Abbey, had the sole management and control of said publishing house until the 15th day of October, 1865, and that he remained in said office of financial secretary, in the employ of said corporation, as one of its agents, until the 30th day of April, 1866.

Affiant further states that said publishing house, up to the time it was taken possession of by the Army of the United States, as hereinafter stated, was one of the largest and completest in the United States, as this affiant believes, its property in Nashville being worth, as taken and held by the said Army, nearly if not quite \$700,000. The ground and buildings around and occupied by said corporation were worth, in 1864, in the judgment of this affiant, \$150,000 at a low valuation. The front stores of this building, five in number, were occupied as sales and ware rooms while the rear buildings were used for printing, stereotyping, binding, etc., for an extensive publishing house.

Affiant further states that on or about the 1st day of January, 1864, this entire establishment, the house and all its contents, were taken possession of by the chief quartermaster of the military department of the Cumberland, Col. J. L. Donaldson,

by order of Maj. Gen. George H. Thomas, commander in chief of the same, for the use of the Army of the United States, and was so held and used by said Army, and out of the possession of this affiant, until the 13th day of December, 1865, when it was—that is, what was left of it—restored to this affiant.

Affiant further states that when so taken he made every effort to induce the said Donaldson to confine his impressment to the rear buildings containing all the printing and manufacturing implements, fixtures, and machinery, and leave in the possession of this affiant the front stores and warerooms, containing paper, general stationery, books, etc. But this Colonel Donaldson peremptorily refused to do, saying to me, "I take immediate possession of the entire property, everything; the building entire and everything therein." For so he construed General Thomas's order; and he took possession of the entire property that day in the name and for the use of the United States.

The rear portions of the building, types, machinery, etc., were converted into a Government printing office or printing house, while the front stores and warerooms were used as an army saddle and harness factory. So that while this publishing house sustained a great portion of the entire expense of the public printing of this great branch of the Army of the United States, and of the paper on which that printing was done, and furnished large and ample stores and warerooms for an extensive Government saddle and harness factory, it was necessarily prevented from pursuing its great work of supplying the whole country with a wholesome, moral, and religious literature, which is its proper and legitimate business.

Deponent further says that in cleaning the stores and warerooms above mentioned for the reception of the Government saddlery and to make room for the workmen, so urgent were the necessities of the Army, as affiant was informed, that the books and stationery, much of it, was removed in the greatest possible haste, so much so that large quantities were hurriedly piled indiscriminately in great heaps, and some of it removed several times in attempts to save some of it from total loss, but the orders to clear the rooms were so peremptory and urgent that much of it was destroyed or damaged.

Affiant further states that when this property was so taken as above, he had just finished the building of a front store in a vacant space, of the value of \$5,000, which store was entirely demolished and removed to make more easy access to the back buildings for the Government workmen.

And affiant further states that a lot of printing material, constituting what printers call a job office, comprising a printing press and complete outfit, was taken out of the said publishing house, and from the possession of this affiant, by order of the commander of the post at Nashville, and for the use of a corps of United States Engineers, and finally carried to the front, as affiant was told and believes. No part of this printing office was returned. The value thereof, at a low estimate, as this affiant believes, was \$5,500. It was taken on or about the 15th July, 1862.

And affiant further states that, by order of the United States post commander of Nashville, in like manner three large iron lathes belonging to said publishing house were taken from his possession on or about the 10th January, 1863, and removed a short distance to another Government building, where they were used by the United States Army for the turning of cannon and other metals. They were returned on or about 15th December, 1865.

Affiant further states that while this house was so in the possession of the Army, certain alterations were made in the interior of the building, for the benefit of the Government and its workmen, and that in the belief of this affiant it would cost \$5,000 to restore the house to its original condition.

And this affiant further says that he has made careful estimate of the personal property, machinery, implements, and merchandise of all kinds in said publishing house, and put into the service of the United States and used by the Army as above explained; and he believes the value to be as follows, according to the best data within reach: The merchandise in front stores he values at \$180,000, and the machinery, type, presses, bindery, etc., at \$312,000.

Affiant further states that he has made careful estimates and cost of the damage to the merchandise in the front stores, to make room for the Government saddlery and workmen as above explained, and believes it to be 50 per cent on the value thereof at a low and fair estimate.

And affiant further states that when the Army took possession of the said publishing house, its machinery was supplied throughout with a complete set of belting, which was worn out by the army printers in the service of the United States, and rendered worthless.

Affiant further states that while the said Army took and kept actual possession of all the merchandise of every kind in the front stores and salesrooms, they did not actually consume the whole of the same, for that some of it was returned to this affiant when the whole property was restored; affiant has made careful examination of all data within his reach to ascertain as nearly a practicable the amount thereof

which was actually used and consumed by the said Army, and he estimates and values the same at \$90,000.

Affiant further states that he had in his possession, made at the proper times and by the proper officers, the regular orders and receipts for the three iron lathes, and for the job office for the Government engineers, above spoken of; but the copies of said orders and receipts were accidentally destroyed by fire.

R. ABBEY.

Subscribed and sworn to before me the 1st of October, 1872.

[NOTARIAL SEAL.]

JOSIAH FERRISS, *Notary Public*.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,

Clerk of the Committee on War Claims of the House of Representatives.

AFFIDAVIT OF JOHN W. CARTER.

STATE OF TENNESSEE, *Davidson County*:

Personally appeared before me, Josiah Ferriss, a notary public in and for said county and State, John W. Carter, a man well known to me, who, being duly sworn, deposes and says that in the year 1863, and for about six years previously, he was a clerk in the Southern Methodist Publishing House; that he usually lodged in the house and was well acquainted therein during all the time said house was occupied by the Army of the United States in the years 1864 and 1865. He further says that when the said Army took possession of said publishing house Mr. R. Abbey, the agent in charge of same, had recently built a store in a vacant space in front of said premises, which store was torn down and removed by the army workmen of said Army to make more easy access to the book buildings for the accommodation of the army printers moving the printing machinery, etc., of said publishing house.

This affiant does not know of his own knowledge the precise value of said new store, but from his knowledge of stores and rent in Nashville at that time believes the said store would have rented for about a thousand dollars a year.

This affiant also knows that while the said Army of the United States occupied the said house there were various alterations, changes, etc., made therein for the accommodation and benefit of the said army workmen, such as removing shelving, making stairs, cutting away cornice, making privies, sewers, etc. He does not know what it would cost to restore the said premises to the original condition before the changes and alterations were made, but from the best of his knowledge and belief, approximating such cost, he estimates it at five thousand or thereabouts.

J. W. CARTER.

Subscribed and sworn to before me the 19th October, 1872.

[NOTARY SEAL.]

JOSIAH FERRISS, *Notary Public*.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,

Clerk of the Committee on War Claims of the House of Representatives.

AFFIDAVIT OF J. M. HUDSON.

STATE OF TENNESSEE, *Davidson County*:

Personally appeared, before me, Josiah Ferris, a notary public in and for said county and State, John M. Hudson, a man well known to me, who, being duly sworn, deposes and says, in addition to what he has formerly stated in a deposition previously made touching the occupancy and use by the Army of the United States of the Southern Methodist Publishing House in the years 1864 and 1865, that the belting on the machinery in said house taken and worn out by said Army in using the same in doing the Government printing, as stated in the said former deposition, was of the value of \$750, in the judgment of this affiant as machinist, according to the best and most accurate estimate he is able to make of the same.

J. M. HUDSON.

Subscribed and sworn to before me this 23d day of October, 1872.

[NOTARY SEAL.]

JOSIAH FERRIS, *Notary Public*.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War Claims of the House of Representatives.

CERTIFICATE OF SAMUEL M. HARRISON.

OFFICE OF UNITED STATES LOCAL INSPECTOR OF STEAM VESSELS,
Nashville, October 1, 1872.

This is to certify that I am personally acquainted with William G. Dashiell, the present chief engineer of the Nashville waterworks, and I know him to be a gentleman and a first-class engineer, and would give credit to any statement he might make.

SAM. M. HARRISON,
U. S. Local Inspector Boilers, Nashville, Tenn.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a certificate now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War Claims of the House of Representatives.

CERTIFICATE OF EDWARD H. EAST.

I have known A. L. P. Green, Thomas D. Fite, Thomas O. Summers, Hugh Carroll, W. R. Warren, J. W. Hunter, William H. Bang, A. H. Redford, Richard Abbey, and Robert T. Spillers for many years, none of them for less than five years and many of them for more than twenty years. They are personally among the best class; no better citizens can be found in this or any other community. They are gentlemen of intelligence (some of them in a high degree), of the most conscientious regard for truth, and entitled to full faith and credit under all circumstances.

I am, respectfully,

EDWARD H. EAST,
Chancellor of the Seventh District of Tennessee.

SEPTEMBER 30, 1872.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a certificate now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War Claims of the House of Representatives.

CERTIFICATE OF E. R. CAMPBELL.

UNITED STATES OF AMERICA,
Middle District of Tennessee:

I, E. R. Campbell, clerk of the circuit court of the United States for the district aforesaid, do hereby certify that I am well acquainted with the standing and reputation of Rev. A. L. P. Green, Thomas D. Fite, Rev. Thomas O. Summers, Hugh Carroll, Rev. W. R. Warren, J. W. Hunter, Wm. F. Bang, A. H. Redford, and Rev. Richard Abbey, and from my knowledge of the men, and also from their general reputation, would say that they are entitled to full faith and credit in any deposition or otherwise. In fact, they rank among the best and most substantial men of Nashville, and implicit faith would be given them before the courts.

[SEAL.]

E. R. CAMPBELL,
Clerk United States Circuit.

NASHVILLE, TENN., September 30, 1872.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true copy of a certificate now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War Claims of the House of Representatives.

AFFIDAVITS OF REV. JOHN B. M'FERRIN AND REV. R. ABBEY RELATIVE TO CLAIM OF
THE SOUTHERN METHODIST PUBLISHING HOUSE.

Personally appeared before me, Josiah Ferris, a notary public in and for Nashville, in the county of Davidson, Tenn., John B. McFerrin, a man well known to me, and, being duly sworn, deposes and says that in May, 1858, he being a Methodist minister, was elected by the General Conference of the Methodist Episcopal Church South the general agent of the Southern Methodist Publishing House, in Nashville, Tenn., the Rev. R. Abbey being at the same time and by the same General Conference elected financial secretary of the same publishing house, the same being a corporation chartered by the legislature of Tennessee; and that this affiant and the said Abbey continued to discharge their several duties as above designated, and so jointly to manage said publishing house until about the middle of February, 1862, when this affiant left Nashville and did not return until May, 1865. And affiant further states that in the period from June, 1858, to February, 1862, when the affiant left Nashville as above, the business and finances of said publishing house were under the sole control of himself and said Abbey.

Affiant further states that during his connection with said publishing house as general agent as aforesaid no part of the building, machinery, types, presses, or other property of said publishing house was permitted to be used by or for the benefit of the Confederate Army, so called; nevertheless, prior to the 16th of February, 1862, some of the machinery of said house was for a time used for the benefit of said Confederate Army under imperative demand. Some of the printing presses and types were also used in the period above named for the printing of a book to be for the use of the Confederate Army, called "Hardee's Military Tactics;" but this book was not published by said publishing house, but by the State of Tennessee, while the Confederate forces occupied Nashville. The work was simply done as a job—not directly for the State, but for J. O. Griffith & Co., who were the State printers.

[SEAL.]

J. B. MCFERRIN.

Subscribed and sworn to before me the 17th of January, 1874.

JOSIAH FERRIS, *Notary Public.*

DISTRICT OF COLUMBIA,
County of Washington, ss:

Before me, the subscriber, a notary public within and for the District and county aforesaid, duly commissioned and qualified, personally appeared the Rev. Richard Abbey, who, having been duly sworn, deposes and says that from the month of May, 1858, until the 17th of February, 1862, he and the Rev. J. B. McFerrin, D. D., were the agents who had the entire management and control of the corporation in Nashville, Tenn., chartered by the legislature of Tennessee, under the name and style of "The Book Agents of the Methodist Episcopal Church South," and commonly known as the "Southern Methodist Publishing House;" and that from the said 17th of February, 1862, until after the close of the war of the rebellion, he, the said affiant, had the entire management and control of said corporation and its business, being, without intermission, actively and practically engaged in said duties from said month of May, 1858, till the month of April, 1866.

Deponent further says that during the entire period of 1860 and 1861, and as long as the said McFerrin continued in the said business, as above stated, it was distinctly agreed and understood between them that suitable care must be taken by them that the said publishing house, being a church institution, must be kept, as far as possible, entirely aloof from all connection, entanglement, or alliance with the civil and military strife and commotion then threatening the country so fearfully. This understanding, affiant believes, was strictly and faithfully carried out as far as was in the power of said agents during the entire period above named. And so, in pursuance of this understanding, none of the property, machinery, or implements of any kind of this institution, was at any time or to any extent used by them, or permitted to be used in any way for the benefit of the so-called Confederacy, or to encourage secession of States, or for the Confederate army or soldiers, their adherents, their government, or their cause.

Nevertheless, the following things are true, viz: During several weeks, affiant does not know how long, but up to the time of the capture of Fort Donelson, the 16th

February, 1862, a portion of the machinery of said publishing house was used by the Confederates, or for their benefit, in the manufacture of warlike iron; but this was done under military coercion and against the consent of the proper authorities of said publishing house. The city of Nashville was then in the unmolested possession of Confederate troops, where they were improving their military equipments. By order of the governor of Tennessee, as affiant understood and believes, a book was printed at said publishing house called Hardee's Military Tactics; but over this matter the house had no control, under the circumstances. A weekly newspaper was published at the same house, by order of the General Conference of the Methodist Episcopal Church South, called the Christian Advocate. In that paper several articles or paragraphs were inserted by the local editor, at different times, the tendency of which was to encourage the Confederates and secession. But neither the publishing house nor any of the officers thereof had any control or right of control of the editor of that paper as to what he would or would not print in it, he being placed there by and responsible only to the said General Conference.

Affiant further states that no moneys of said publishing house were ever used, paid, or in any way appropriated for the use, benefit, or advantage of said Confederates, either in the purchase of Confederate bonds or otherwise, so far as he knows or believes. He was the financial secretary of said publishing house for eight years, during the entire period of the late war, and he has no recollection of ever seeing a Confederate bond.

It is intimated it might be further proper to state here what portion of the officers or employes of said publishing house went South with the Confederates, on the evacuation of Nashville or afterward. The agents, editors, superintendents of manufacture, foremen, etc., of the house at that time were about twenty or more in number, as well as recollected; of these, one of the two agents and two of the three editors went South, all the rest remaining, as well as now recollected. Affiant is unable to recollect that any of the printers, binders, or other operatives or employes of said house went South with the Confederates, or that any of those remaining were ever seriously charged with being or were generally considered disloyal to the United States.

Affiant further states that after the said 17th February, 1862, and until the close of the war, he held no correspondence with any person or persons within the Confederate lines touching the affairs of said publishing house, nor would he at any time in the war have received or entertained any demands, requests, or counsel from anybody in that quarter on the subject of said business. At one time such a request was made in regard to a particular matter of not much importance, but was promptly declined.

And further this deponent sayeth not.

R. ABBEY.

Sworn and subscribed before me this twenty-ninth day of January, in the year eighteen hundred and seventy-four.

[SEAL.]

N. CALLAN,
Notary Public, City of Washington, D. C.

[Extract from the Discipline of the Methodist Episcopal Church South.]

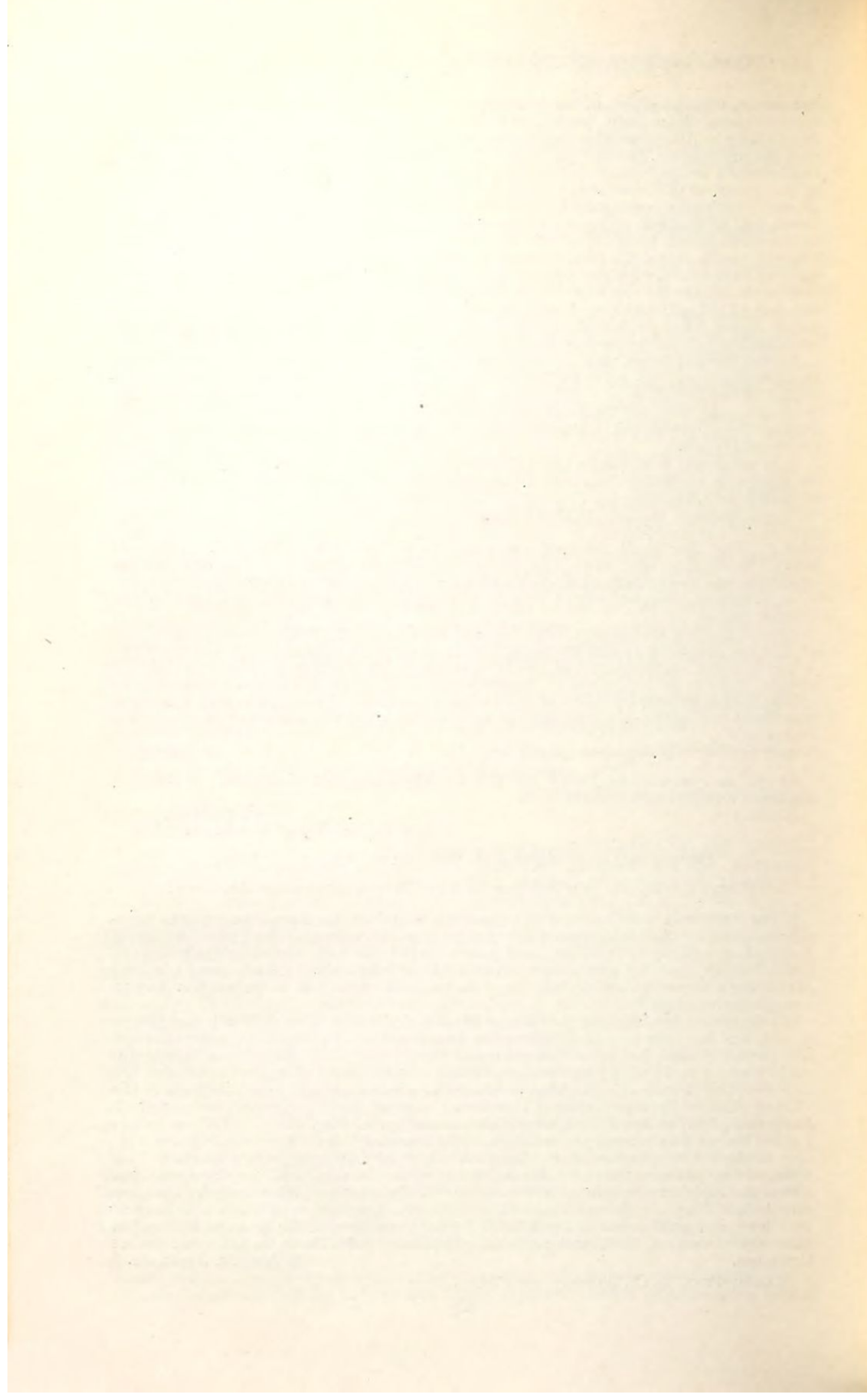
"SEC. XXIII. OF THE RULERS OF THE UNITED STATES OF AMERICA.

"The President, the Congress, the general assemblies, the governors, and the councils of state, as the delegates of the people, are the rulers of the United States of America, according to the division of power made to them by the Constitution of the United States and by the constitutions of their respective States. And the said States are a sovereign and independent nation, and ought not to be subject to any foreign jurisdiction."

By the above fundamental law the Methodist Episcopal Church South was placed of old, and has ever remained, under the protection of the Constitution and laws of the United States; but its well-known and highly cherished policy is to have nothing whatever to do with any civil or political questions. And so, in the time of the late war, the church—that is, that portion of it which then had legal existence in the United States—by the advice of competent counsel, held a general convention in Louisville, Ky., in April, 1864, at which its ancient and unchanged relation to the United States was, among other things, fully asserted. But this declaration of loyalty to the existing Government, though frankly and fully expressed, did not infringe upon its sacred doctrine of total noninterference in civil and secular questions. After the Southern people were readmitted to their former citizenship by the Government, and so, the church reunited, the General Conference of the whole church, which sat in New Orleans in April, 1866, formally "approved the acts and doings" of this convention of 1864, and paid its expenses. All this is in full proof before Congress.

R. ABBEY, *Agent, etc.*

WASHINGTON, D. C., January 30, 1874.



HELEN MORRELL CARROLL.

FEBRUARY 13, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MILES, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany S. 730.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 730) granting a pension to Helen Morrell Carroll, have carefully examined the same, and, adopting the accompanying Senate report (No. 53) as their own, respectfully recommend its passage.

[Senate Report No. 53. Fifty-fourth Congress, first session.]

The Committee on Pensions, to whom was referred the bill (S. 730) granting a pension to Helen Morrell Carroll, have examined the same, and report:

A similar bill was introduced in the Fifty-third Congress, referred to the Committee on Pensions, examined, reported favorably, and passed the Senate.

The facts are as follows:

Mrs. Carroll is the widow of the late Maj. Gen. Samuel Sprigg Carroll. She is now drawing a pension of \$30 per month. She is in feeble health and without property. General Carroll's military record is one of conspicuous merit. Entering the service in 1856, he gained great renown, especially in the late civil war, as will appear from the appended statement from his military service furnished by the War Department. He was promoted to major for gallant and meritorious services in the battle of Chancellorsville; to lieutenant-colonel for gallant and meritorious service in the battle of Gettysburg; to colonel for gallant and meritorious service in the battle of the Wilderness; to brigadier-general for gallant and meritorious service in the battle of Spottsylvania, and to major-general for gallant and meritorious service in the field during the war.

The record is one of great brilliancy, and your committee are of opinion that it entitles the widow to a much higher rate of pension than she is now receiving.

Your committee recommend, therefore, the passage of the bill.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, December 22, 1894.

Statement of the military service of the late Gen. S. S. Carroll, of the United States Army, compiled from the records of this office.

Cadet United States Military Academy, July 1, 1852, to July 1, 1856; was graduated and appointed brevet second lieutenant, Ninth Infantry, July 1, 1856; promoted to second lieutenant, Tenth Infantry, October 1, 1856; promoted first lieutenant April 25, 1861; promoted captain November 1, 1861; commissioned colonel, Eighth Ohio Infantry, December 7, 1861; commissioned brigadier-general of volunteers, May 12, 1864; honorably mustered out of volunteer service January 15, 1866; promoted lieutenant-colonel Twenty-first Infantry, January 22, 1867; retired with rank of major-general under act of July 28, 1866, June 9, 1869.

Brevetted major United States Army May 3, 1863, for gallant and meritorious service in the battle of Chancellorsville, Va.; lieutenant-colonel July 3, 1863, for gallant and meritorious service in the battle of Gettysburg, Pa.; colonel May 5, 1864, for gallant and meritorious service in the battle of the Wilderness, Va.; brigadier-general March 13, 1865, for gallant and meritorious service in the battle of Spottsylvania, Va.; major-general March 13, 1865, for gallant and meritorious service in the field during the war, and major-general of volunteers March 13, 1865, for gallant and meritorious service during the war.

SERVICE.

He was on duty at Fort Columbus, N. Y., October 10, 1856, to March 9, 1857; joined his regiment, Tenth Infantry, May 25, 1857, and served with it at Fort Ridgely, Minn., to June 9, 1857; en route to and in Utah to July 8, 1859; on leave to January 5, 1860; on duty as quartermaster at the United States Military Academy to November 11, 1861; commanding regiment, Eighth Ohio Volunteers, in the field in West Virginia to May 23, 1862; commanding a brigade in General Shield's division to August 14, 1862; and was engaged in the actions at Kernstown, March 22, 1862, and Port Republic, June 9, 1862; battle of Cedar Mountain, August 9, 1862, and skirmish on the Rapidan, August 14, 1862, where he was wounded; on sick leave to September, 1862; commanding brigade in Army of the Potomac (on sick leave July 24 to August 5, 1863) to May 13, 1864; and was engaged in the battles of Fredericksburg, Va., December 13, 1862; Chancellorsville, Va., May 2 to 4, 1863; Gettysburg, Pa., July 1 to 3, 1863; Bristow Station, Va., October 14, 1863; Wilderness, Va., May 5 and 6, 1864, and Spottsylvania, Va., May 9 to 13, 1864, where he was twice wounded. He was absent on account of wounds to December 6, 1864; he was on duty in the Department of the East and Washington, D. C., to February 21, 1865; commanding Department of West Virginia to March 8, 1865; commanding Second Division of that department to April 2, 1865, and the Fourth Provisional Division, Army of the Shenandoah, and First Division, First Corps, to July, 1865; on duty at Camp Stoneman, District of Columbia, and awaiting orders to August 14, 1865; commanding the district of northeast Virginia and district of central Virginia to January 15, 1866; on ordinary leave to April 18, 1866; on recruiting service to April 1, 1867; with regiment (Twenty-first Infantry) and in command of Petersburg, Va., to January 24, 1868; on twenty days' sick leave, and permission to delay to February 22, 1868; on duty at headquarters Department of Washington to April 1, 1868; on duty as acting assistant inspector-general, Division of the Atlantic, to March 19, 1869, and awaiting orders and undergoing examination before a retiring board to June, 1869. He was examined by a retiring board at New York City June 1, 1869, and the board found in his case as follows:

"That Bvt. Maj. Gen. S. S. Carroll, lieutenant-colonel, United States Infantry, is incapacitated for active service, and that said incapacity results from wounds received in battle, while commanding two brigades of from 15 to 17 regiments in the battle of Spottsylvania, Va., May 13, 1864, and the board recommend that he be retired in conformity with the thirty-second section of the act of July 28, 1866."

General Carroll was, therefore, retired from active service June 9, 1869, with the full rank of major-general, being the rank of the command held by him when wounded. He died January 28, 1893.

J. C. GILMORE,
Assistant Adjutant-General.

MARY DOUBLEDAY.

FEBRUARY 13, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ERDMAN, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany S. 1203.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 1203) granting an increase of pension to Mary Doubleday, quote from the report of this committee in the Fifty-third Congress the following, which they adopt as their own:

The beneficiary under this bill is the widow of Bvt. Maj. Gen. Abner Doubleday. She is now far advanced in life, is in feeble health, and requires care and medical attendance, which she is not able to secure with the amount provided for in the existing pension. We find that after General Doubleday's retirement from the Army he lived very economically in the village of Mendan, N. J., and devoted all his income above the amount necessary for his support to the providing of a policy of insurance in behalf of his widow; that shortly before his death the insurance company failed, and that his last hours were clouded with the fear that his widow would come to want.

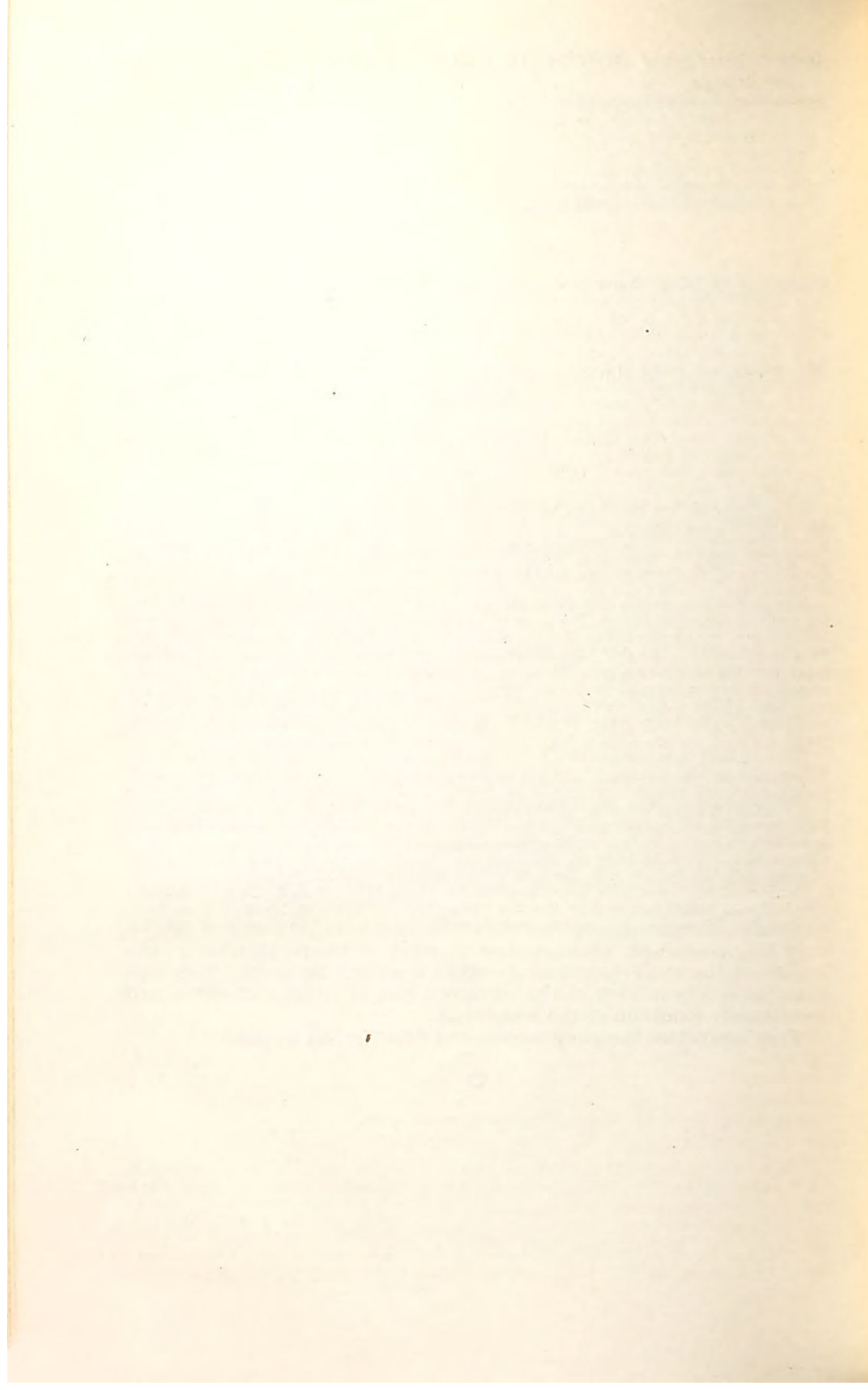
We find that, independent of the notable services of her husband in behalf of the Union, she herself, during a long life as his companion upon the frontier and in campaign, rendered valuable service to the country. Particularly was this the case in the Florida wars, when she remained with her husband in the wilderness, and by her presence and influence over the soldiers assisted in maintaining discipline and good order; also at Fort Sumter, when it was besieged and the garrison very small, she took her regular turn in relieving the guards and in keeping watch of the approach of the enemy, and also in securing medical supplies from Charleston.

In view of all these facts the committee have unanimously decided to recommend the increase asked for, so that the few remaining years of her life may be at least surrounded by necessary comforts, and earnestly recommend the passage of the bill.

If long-continued, distinguished services merit recognition at the hands of the Congress, such recognition should be accorded in this case, especially in view of the advanced age, physical infirmities, and necessitous condition of the beneficiary.

Your committee therefore recommend that the bill do pass.





VAN HORN v. TARSNEY.

FEBRUARY 13, 1896.—Referred to the House Calendar and ordered to be printed.

Mr. JOHNSON, of Indiana, from the Committee on Elections, No. 2, submitted the following

REPORT:

[To accompany Resolution No. 166.]

The Committee on Elections, No. 2, to whom was referred the contested-election case of Robert T. Van Horn against John C. Tarsney, from the Fifth Congressional district of the State of Missouri, and the resolution of Mr. Tarsney to take testimony therein, respectfully report to the House that the parties appeared before them, filed sundry affidavits relating to said resolution, and orally argued the same; that thereafter, having read the testimony and the briefs, heard argument upon the merits of the case, and carefully considered the matters involved, they now submit the following:

Mr. Van Horn was the Republican and Mr. Tarsney the Democratic candidate for Representative in Congress from said district at the regular election held on the 6th day of November, 1894.

The district is composed of the counties of Jackson and Lafayette, Kansas City being located in Jackson County.

A canvass of the returns showed Mr. Tarsney to have received a plurality of 562 votes in Jackson and 183 votes in Lafayette County, a total plurality of 745 votes in the district; and the secretary of state of Missouri issued to him the certificates of election.

Within the time prescribed by law Mr. Van Horn served upon Mr. Tarsney a notice of contest, which contained 60 specifications, attacking the legality of the election in certain precincts in Kansas City and in the adjoining precinct of Elmwood.

This notice specifically charged fraudulent registration, willful refusal to purge the same, appointment of incompetent and unqualified persons as election officers, illegal expulsion of Republican challengers and witnesses from the polling places, repeating and other unlawful voting, fraudulent refusal to count and return ballots cast for Van Horn, counting and returning such ballots for Tarsney, and the stuffing of ballot boxes and counting and returning the votes in his interest.

To this notice Mr. Tarsney served an answer denying said charges, and also alleging illegal votes counted and returned for Van Horn, failure to count and return legal votes cast for Tarsney, and counting and returning for Van Horn votes cast for Tarsney, all at different precincts from those stated in the notice.

Much testimony has been offered by Mr. Van Horn in support of his charges, and Mr. Tarsney has offered evidence in denial thereof, but has taken no testimony whatever to sustain the allegations of his answer.

THE ELECTION LAWS OF MISSOURI.

The law under which the election was held is found in article 2 of chapter 30, volume 1, of the Revised Statutes of Missouri of 1889, sections 985 to 1013, inclusive, entitled "Cities of the first class," and in articles 1 and 3 of chapter 60 of the same volume, entitled "Elections," and in sundry slight amendments thereto.

This first-named law is known as the "Recorder of voters or registration act," and the last named as the "General election law."

Every male person over 21 years of age who has resided in the State for one year, in the city for sixty days, and in the precinct for twenty days immediately preceding the election is entitled to vote in the precinct of his residence, provided he is registered therein.

An officer designated as recorder of voters is created, and the registration of voters is provided for under the supervision of such officer.

The registration may be had at the office of the recorder at any time up to twenty days before the election, and may also be had in each ward at stated times.

The registration list in the recorder's office and the poll books, which are simply a transcript thereof as to the voters registered from the ward, alphabetically arranged for the convenience of the election officers, and which the recorder is required to make and deliver to them, are so made as to give the name of the person registered, his registration number, his residence, and his peculiar marks of identification.

No provision is made for new registration of voters at stated times, but in order to purge the registration books of illegal names that accumulate thereon the recorder of voters is required to appoint a board of revision, of reputable citizens of opposite politics, one for each ward of the city, who shall meet with this officer (who is ex officio president of the board) twenty days before the holding of an election, for the purpose of examining the registration books and purging the same, either from their own knowledge or on evidence offered.

It is also the duty of the board to publish its proceedings and an alphabetical list of the names of all persons stricken off from day to day in the paper doing the city printing.

The ballot is required to contain the names of all the candidates, those of each party to be grouped, with a blank space after the names of the candidates for each office large enough to admit the writing in of other names by the voter. Two judges are to write their initials on the back of the ballot before delivering it to the voter; secret booths are to be erected, in which he shall prepare his ballot for voting, and each voter is required to be numbered on the poll book in the exact order in which he votes, and this number is also to be written upon the back of his ballot.

It is also provided that the recorder of voters, at least ten days before every election, shall appoint six competent persons to act as judges of election, to be equally divided between the two leading political parties, and two persons of different politics from such parties to act as clerks at each election precinct, and that all of said judges and clerks of election shall reside in the precinct and shall be qualified voters of the precinct in which they are to serve.

If any of the persons so appointed shall fail to act, the legal voters of the precinct at the polls on the morning of the election, to the number of not less than ten, are given power to elect some person possessing the requisite qualifications to fill the vacancy, first subscribing their

names in witness of such election to a paper. The recorder of voters is to notify judges and clerks of election of their appointment, in writing, at least five days before the election.

The law then provides as follows:

SEC. 1005. The recorder of voters shall provide two ballot boxes for each election precinct, one of which shall be numbered number one and the other number two, and it shall be the duty of the judges of election to select from their number two who shall be designated and known as receiving judges, and two who shall be designated and known as counting judges. The two receiving judges shall receive the ballots of each elector and shall, upon receipt thereof, pronounce in an audible voice the name of the voter, and if the judges shall be satisfied that the person offering to vote is a legal voter, his ballot shall be taken and numbered in the order he offers to vote, and the ballot shall be folded, and one of the judges shall place the registration number on the back of the ballot, and then draw a horizontal line under it, and shall place the number of the ballot in the order in which it was voted—thus $\frac{308}{13}$; said numbers shall be announced in a plain and audible voice by the judge, loud enough to be heard by the bystanders outside the polling place, and the ballot shall then be deposited in the ballot box, which shall be securely closed for the period of one hour after the opening of the polls. The clerks of the election shall enter the voting number of the ballot and the word “voted” or “rejected,” as the case may be, opposite the voter’s name on the registration list furnished to them. At the expiration of such hour the receiving judges shall deliver said ballot box number one to the counting judges, who shall immediately deliver over to the receiving judges ballot box number two, which shall thereupon be securely closed, in which all ballots received, until the ballots in ballot box number one are counted, shall be deposited, and after the counting judges have counted the ballots in ballot box number one, they shall deliver the box to the receiving judges, and the counting judges shall count the ballots in ballot box number two, and so on, alternating whenever the counting judges complete the count of the ballots in any box until all the ballots cast are counted. All ballots shall be taken out and counted in the presence of all the judges and clerks and party representatives, in the manner provided by law, and it shall be the duty of the counting judges to announce to the electors present the total number of votes polled at the close of each hour, but no information or statement of any kind shall be given or made by the judges or clerks of election revealing the number of votes received by any candidate at such election, or the name of any person who has or the name of any person who has not voted, or any information tending to show the state of the polls; provided, that each political party shall have the right to select one representative to be present with the judges of election, from the opening to the closing of the polls, who may challenge any person offering to vote, but shall not interfere with the judges or clerks in the discharge of their duties. Said representatives shall make oath before the judges of election that they will not, directly or indirectly, give any information showing the state of the polls; provided, further, that no ballot not numbered as herein provided shall be counted, and that the judges shall, in the presence of the electors, examine the ballot boxes at the opening of the polls, and before any ballots are received, to see that they are empty, and at the close of the polls the judges shall continue to count until all the ballots are counted, without removing from the polling place.

It is also provided that the judges of election shall designate two of their number, of opposite politics, to have charge of the ballots and hand them to the voter; that after the vote is counted the poll book shall be footed and shall be signed by the judges and attested by the clerks; that the ballots, after being counted and strung, shall be placed in the ballot box and the box sealed and then conveyed by two of the judges, of opposite politics, to the office of the recorder of voters and there delivered to him; and that this officer shall safely place and keep the same for twelve months, not inspecting the contents nor allowing others to do so, except on a lawful order of court in a contested-election case.

CONSPIRACY TO COMMIT FRAUD AT THE ELECTION.

Turning now to the facts in the case, the committee show that Charles S. Owsly was the recorder of voters in Kansas City at and before the election in question. He was a Democrat, and it clearly appears that

he was the active leader in a widespread conspiracy there formed to commit fraud at certain precincts at such election.

This conspiracy embraced a number of persons, nearly all of whom were Democrats. It also included a few men who at times pretended to be Republicans, namely, John May, John Moran, Owen W. Krueger, and Jeff D. Brennan.

The record, however, shows that, while they had at times operated with the Republican party and had one or two of them been appointed or elected to office as Republicans, they, nevertheless, frequently voted the Democratic ticket, and at least one of them had held a local office by Democratic appointment.

May and Moran had supported the Democratic candidate for mayor at the municipal election in the spring of 1894, and were working for the Democratic ticket, except as to justice of the peace and constable, the day of the election now in contest. The record also plainly shows that this unlawful combination had for its object the election of the whole Democratic ticket, including Mr. Tarsney, with the exception of a candidate for justice of the peace and a candidate for constable in the Second Ward. Against these the said Kreuger and Brennan were opposing candidates upon the Republican ticket, and they received the support of these conspirators.

The instrumentalities employed by this wrongful organization to accomplish its purpose were numerous.

FRAUDULENT REGISTRATIONS.

They started out by instigating and committing extensive and glaring fraudulent registrations in many precincts throughout the city.

One witness, I. H. Bradbury, a colored man who published a Democratic paper and made Democratic speeches in the canvass, testified that he and Joseph Pierce, also a Democrat, were foremen of street gangs of colored men in the city in the years 1893 and 1894, and that, by the direction of May, who was then superintendent of streets, and with the knowledge of Owsly, they took said colored men, on numerous occasions, to the office of the recorder of voters and there had them fraudulently registered, under assumed names; that these registrations commenced in August, 1893, and were continued up to shortly before the municipal election in the following spring; that the registrations were usually made upon Saturday and were chiefly from the Fifth and Seventh precincts of the Second Ward, and amounted in all to nearly 400.

This witness also testifies that, after this false registration, the conspirators became alarmed for fear that the excessive registration in this Fifth precinct would attract public attention and thus lead to the exposure of themselves and of their designs, and that, in the month of October, 1894, and while the board of registration revision was in session, they sent one George A. Pierce, a Democratic committeeman, who had been appointed by Owsly for the ostensible purpose of canvassing the Second Ward for illegal registrations, to the witness and obtained from him the names of about two hundred of the colored men so falsely registered in the Fifth precinct, and that thereafter these names were transferred to the Sixth and Seventh precincts of the ward, on the registration books in the recorder of voters' office.

It is shown in the evidence that these registration books fully and minutely corroborate all the statements of this witness in every particular, and that they show these false registrations to have been made at the time, in the manner, and in the precincts as alleged by him, and

the transfer of the fraudulent registrations from the Fifth and the Sixth and the Seventh precincts to have been made exactly as he declared.

Many other fraudulent registrations are plainly shown to have been committed throughout Kansas City, by a volume of additional testimony.

Immediately following the election intense excitement prevailed throughout the city, caused by the frauds and outrages perpetrated at the polls, and a large meeting composed of citizens of all shades of political opinion was held. At this meeting a nonpartisan committee of safety was organized for the purpose of ferreting out the wrongdoers and bringing them to justice.

This committee, composed of three Republicans, one Democrat, and one Populist, among other steps taken by it, appointed competent and reliable persons to canvass the precincts in which the frauds had been the most glaring, with a view of ascertaining the extent to which the fraudulent registrations had been carried.

Each of these precincts was visited within ten days or two weeks after the election by two of these canvassers, who had with them exact copies of the registration lists or poll books used at the election in the precinct, and they made together a thorough house-to-house canvass of the entire precinct. The inquiry and investigation made by them was of the most careful and conscientious character.

The result of this canvass demonstrates the false registration to have been enormous and widely distributed throughout the precinct. Hundreds of persons registered and marked "voted" upon the poll books could not be found, or even heard of, and very many of these were discovered to be registered from vacant lots, houses that had long been unoccupied, and other impossible places.

A large number of persons who resided at the houses from which persons returned as having voted were registered, also testified that such persons never lived there.

Owsly, in person, entered many of these false registrations. When persons falsely registering became timid and declined to continue it May was called in, and subsequently he claimed to have visited Owsly and obtained his sanction to its further perpetration. When, in the ward registration, his deputy declined to permit fraudulent registrations to be made, Owsly was informed of it, and soon thereafter the deputy ceased his opposition. Large numbers of false registrations were made in his office from unoccupied buildings and vacant lots, with which he was well acquainted, and which he must, therefore, have known were fraudulent.

The evidence also shows that the Republican committee, shortly before the election, procured each one of a number of suspected precincts to be carefully canvassed, by two qualified persons, who recorded, in books prepared for the purpose, the names and residences of all legal voters therein; that these books were then compared with the registration list for the precincts in the recorder's office and all additional names found thereon were copied into the books; that the canvassers then returned to the precincts with the books and carefully rec canvassed them for the additional names and marked such as they were able to find, which were very few, upon the books; that immediately thereafter the chairman of the committee waited upon Owsly with the books, stating what had been done, and pointed out to him that the books showed 4,500 persons falsely registered in these precincts, and asked him to procure canvassers to be appointed by the board of revision, then in session, to accompany the committee's canvassers back to the precincts, that they might there, together, verify such books and

jointly report such fraudulent registration as they might discover to the board and have them stricken from the registration list. But the evidence also shows that, instead of acting upon this proposition, Owsly, for the purpose of retaining the fraudulently registered names on the list, proposed and had carried out other methods, which he knew would embarrass the committee and would also be wholly inadequate to purge the precincts, and that, through his delay, only 200 of these 4,500 names were ever removed from the registration list, the balance remaining on it at the time of holding the election.

FRAUD IN THE APPOINTMENT OF ELECTION OFFICERS.

Another step taken by this conspiracy for the furtherance of its object consisted in getting absolute control of the election boards in many of the precincts and in putting therein officers of election who were in sympathy with their purpose and would aid them in carrying it into execution.

Apprehensive that this would be attempted, which apprehension was increased by their failure to secure an honest registration, and their consciousness that fraud of this character had been committed at previous elections in the city (which fraud the evidence in this case shows to have actually been committed), the Republicans sought to protect themselves by securing the appointment of intelligent and honest Republicans to those places upon the election boards to which their party was entitled under the law.

Accordingly, the Republican committee selected in each precinct the names of a number of Republican voters of this character and, having made a list of them, waited upon Owsly and delivered it to him and requested him to make his appointments of the Republican election officers from these names. Owsly answered that he would not do this, but that when the names of his Republican appointees were made public they would be found to be satisfactory by the Republicans.

A few days thereafter the names of the judges and clerks appointed were published in the newspapers, as required by law, and the Republican committee then discovered that scarcely any of their nominees had been appointed.

A searching inquiry in the various precincts failed in many cases to disclose the presence or residence there of the persons named as Republican officers.

It was found, too, that, with rare exceptions, the persons appointed as Republicans who were found were incompetent, disreputable, and of doubtful Republicanism, some of them being Democrats.

The discovery of these facts aroused great excitement in the city. The newspapers commented upon Owsly's conduct with severity and a meeting of citizens was about to be held to give public expression to their indignation over the matter. At this juncture it was agreed, between Owsly and the Republican committee, that such meeting should be called off and that he should submit to four prominent and reputable citizens, who were named, two of whom were Republicans and two Democrats, the question as to whom he should appoint as Republican officers of election, and that he would appoint the persons designated by them.

As soon as this agreement was made the Republican committee prepared objections to Owsly's Republican appointees and also a list of Republican names from which they desired the appointments to be made; but, upon the morning following the making of this agreement, Owsly published a card in the papers withdrawing from the same.

When the Republican committee attempted to present the matter to the arbitrators they found two of them absent from the city, and the others refused to act on account of Owsly's withdrawal.

This plan of settlement having thus fallen through the persons originally appointed by the recorder of voters as Republican election officers were by him allowed to serve in that capacity at the election.

The characters of these officers are clearly shown in the evidence. Some of them were Democrats; scarcely any of them were recognized as sincere Republicans; a number of them were nonresidents of the precincts; others of them had rented rooms in the precincts some days before the election and had slept in the rooms at long intervals, as a pretense of residence, from which fact it clearly appears that their appointment had been determined upon by Owsly and his coconspirators weeks in advance of the election. Many of them were ignorant and wholly incompetent to discharge their duties; a great proportion of them were saloon keepers, bartenders, saloon loafers, and men of like character. This description applies with peculiar force to many of the officers at the Fifth, Sixth, Seventh, and Fifty-second precincts, which precincts are hereafter considered at length.

As will hereafter appear in this report, in conjunction with other officers of election, they actually committed the most unblushing and outrageous frauds at the polls, some of which are conceded by Mr. Tarsney, and others of which are proven beyond all possibility of doubt.

The Democratic judges and clerks appointed by Owsly were also, in many instances, men of disreputable character and had little standing with the decent members of their party, who regarded them with suspicion and distrust, and who now condemn their conduct and are aiding in the endeavor to bring them to justice.

The drinking of intoxicating liquors, both inside and outside of the polls, by the election officers, and the admission of notorious political bosses and heelers into the polling places, is shown by the evidence to have occurred at a number of the precincts, the drinking in several instances having been indulged in to the extent of intoxication by the officers.

Since the election, Owsly, May, Moran, and many other persons, including a number of these election officers, have been indicted for their frauds. Some of them have confessed their guilt; some have been convicted and are now undergoing punishment; the prosecutions against others are still pending, the trials having been delayed by continuances and changes of venue taken by them. One of them has committed suicide, some have fled the country, and others have taken refuge in adjoining States.

It is a significant fact, too, that some of them who were appointed as Republicans were shortly after the election appointed to places in the offices of Democratic officials.

That improperly constituted election boards is pregnant evidence of a conspiracy to defraud is declared to be the law in Digest of Contested Election Cases, Rowell, pages 172, 255, and 801.

EXCLUSION OF REPUBLICAN CHALLENGERS AND WITNESSES FROM THE POLLS.

Having failed in their endeavor to have honest men appointed as election officers, as well as to secure a purged registration list, the Republicans turned to challenges and witnesses to the count as a means of securing a fair election.

Section 1005 of the recorder of voters act, heretofore referred to, provides as follows:

Provided, That each political party shall have the right to select one representative to be present with the judges of election from the opening to the closing of the polls, who may challenge any person offering to vote, but shall not interfere with the judges or clerks in the discharge of their duties. Said representatives shall make oath before the judges of election that they will not, directly or indirectly, give any information showing the state of the polls.

This section clearly authorized the placing of a Republican challenger at each precinct.

Section 1010 of the same act reads as follows:

All elections in such cities shall be conducted in all respects as provided in this article and subject to all the provisions of the Revised Statutes entitled "Elections," so far as the same do not conflict with this article.

Section 4673 of the general election law contains the following provision:

No person or persons shall be admitted into the room or office where such ballots are being counted, except the judges and clerks of election: *Provided*, That any political party may select a representative man who may be admitted as a witness of such counting.

The duties of the challenger provided for in section 1005 of the recorders' act are different in character from the duties of the witness to the count provided for in section 4673 of the general election act. The challenger is to challenge the voter, not to witness the count. It is impossible for him to watch the counting while he is challenging; besides, he has no right to remain at the polls after the voting ceases, and, therefore, can not watch that part of the count which is necessarily conducted thereafter. The witness to the count has no right to challenge, but only to watch the counting, and has the right to remain at the polls after the voting ceases and until the count is completed.

The provision for witnesses in the general election law, therefore, not being in conflict with the provisions for challengers in the recorders of voters act, by express provision of the latter act applied to this election; hence the Republicans were entitled to place a witness to the count at each precinct.

This Owsly and his coconspirators, however, denied, but he finally agreed to the making up of a test case upon the point, to be submitted to the circuit court of the county and to abide by the decision.

This case was accordingly made up. The judges were all Democrats. Two of them held that the law authorized the appointment of witnesses, and the judge who dissented did so with such feebleness as to deprive his opinion of all force whatever.

The opinion of Judge Slover is as follows; that of the two other judges, Henry and Scarritt, appear on page 772 of the record.

JUDGE SLOVER'S OPINION.

Judge Henry left the bench and the court room as soon as he had delivered his opinion, and Judge Slover next delivered his opinion.

Judge Slover said: "Hearing that this question was to be brought before us for decision, I made a somewhat thorough examination of the statutes before the argument was commenced, and the conclusion I reached then is the same I entertain now, after having heard the elaborate arguments at the bar. That conclusion is that each political party is entitled to appoint, through its central committee, a witness to the count, as well as a challenger.

"Section 4673 of the Revised Statutes expressly provides that each political party may select a representative man, who may be present in the election booth as a witness to the count of the ballots by the judges. This law applies to both city and county precincts. Section 1005 expressly recognizes this right by first provid-

ing that the count shall be made in the presence of the judges, clerks, and party representatives in the manner provided by law. The party representative here referred to is the one authorized by section 4673.

"Later on said section 1005 provides for the appointment by each political party of a representative who may be present from the opening to the closing of the polls to challenge. The witness to the count provided for in section 4673 may remain in the booth after the polls are closed and until all the ballots are counted. The two offices are entirely distinct. There is no conflict between the two sections. Repeals by implication are not favored, and it is the duty of the court to sustain legislation, and, in my opinion, section 1005 does not repeal or affect section 4673. Furthermore, section 1010 expressly provides that the general election law, of which the last-mentioned section is a part, shall apply to all elections held in cities, except so far as it conflicts with the recorder of voters or registration act. There being no such conflict, section 4673 stands unrepealed and in full force and effect.

"The result is that the peremptory writ of mandamus must issue, and the witnesses to the count, as well as the challengers, must be admitted to the election booth. Gentlemen, prepare the entry and the clerk will enter it."

Judgment was promptly rendered in accordance with this opinion, and the decision was published in the newspapers and generally known throughout the city three days before the election. Notwithstanding this, Owsly proceeded to instruct the officers of election that it rested in their discretion whether witnesses to the count should be admitted to the polls, and that they possessed the right to exclude them if they desired to do so. On the day of the election Republican challengers and witnesses presented themselves at the precincts, bearing written certificates of their appointment, signed by the chairman and secretary of the Republican committee, and asked to be admitted; but were almost invariably rejected and expelled by the election officers, in many instances with menaces and personal indignities, and in some instances with personal violence, in all of which action the alleged Republican officers of the election generally joined. The pretext for this exclusion was that the challengers and witnesses should bring certificates of appointment from Owsly. This in the very face of the law heretofore quoted, which confers the right of selection upon the political party, and of the opinion of Judge Slover that "each political party is entitled to appoint, through its central committee, a witness to the count, as well as a challenger."

After their exclusion by the officers of election these challengers and witnesses repaired to Owsly's office, where they found the doors locked. After persistent rapping they succeeded in securing a response from one of several persons discovered to be inside that Owsly was not in.

Thereafter two or three of them encountered him at the polls and, exhibiting their appointments to him, informed him of their exclusion and invoked his appointment and assistance, but he declined to give it. This election was therefore conducted under a fraudulent registration list, by election officers illegally constituted for the express purpose of committing frauds, and in the absence of the very challengers and witnesses who, if they had been admitted, would have prevented its commission.

The law applicable to the exclusion of United States supervisors from the polls, and which bears somewhat upon the exclusion of these challengers and witnesses, is set forth in Digest of Contested Election Cases, Rowell, page 801.

FIFTY-SECOND PRECINCT, NINTH WARD.

We proceed now to examine some of the individual precincts.

The fifty-second precinct in the Ninth Ward was one in which great frauds were perpetrated. The returns from this poll show 363 votes

for Mr. Tarsney and 183 votes for Mr. Van Horn, being a plurality for Mr. Tarsney of 180 votes.

T. J. Canny, appointed a Republican judge, testifies that Ed. Findly, a gambler and Democratic politician, sent for him two nights before the election and informed him that Owsly, John O'Neil, Democratic sheriff and candidate for reelection, Tommy McGee, a Democratic boss, and himself had arranged to carry the election for the Democratic ticket by fraud, and that they had procured him to be appointed a Republican judge in the precinct, and that if he would act they would give him \$50, and that O'Neil would give him a place in his office, and, if he could not give him that, he would secure him a position elsewhere at a salary of \$125 per month; that Findly also told him that they proposed to carry the First Ward by 700, the Second by 1,500, and the Fifty-second precinct by 275 majority; that the election board of the precinct was organized at the dictation of Findly, and was managed throughout under the direction of one Morrison, alias Moses, a bartender and a friend of Findly's; that the windows of the polling place were soaped by Morrison to destroy their transparency; that Findly, the Shannons, and a number of other Democratic workers were frequently in and out of the polling place during the day, and there engaged in whispered conversations with Morrison and other election officers; that one of the Shannons informed Morrison that it was necessary to have 275 majority for the Democratic ticket at this precinct, and was answered that it should be given; that the counting judges and clerks did their work in one of three small feed bins that were in the room, and which concealed them entirely from the voters, and partially from the other election officers.

This witness testifies further that the election officers took from the ballot box at one time 115 straight Republican ballots which had been voted, but which had not been counted, and copied their registration and voting numbers upon 115 straight Democratic tickets, which had not been voted, and then strung, counted, and returned these Democratic tickets for all the Democratic candidates, including Mr. Tarsney, and then deposited the Republican ballots in a basket and carried them away from the polls; that later in the day the same fraud was repeated with respect to 55 additional straight Republican ballots, the Republican tickets in this instance being burned up in the stove; that other scratched Republican ballots, which had been cast, were taken from the ballot box and still further scratched for local Democratic candidates, and then counted and returned for them; that at various times during the day the officers prepared, deposited in the ballot box, counted, and returned many straight Democratic tickets other than the tickets before named, and upon which they marked the registration number of voters who did not actually vote, but the number of which it was impossible for the witness to give. The witness still further testified that toward the close of the polls 25 other straight Democratic tickets were prepared and sought to be counted and strung, but that it was finally decided not to do this, because, as one of the officers remarked, "The box will not stand it," and that thereupon these ballots and 25 or 30 genuine ballots, then in the box and uncounted, the exact number of which and for whom voted being unknown, were wrapped together and thrown aside, and subsequently put by Morrison into his overcoat pocket and carried away.

It appears from the record that this witness visited the governor of the State shortly after the election and exposed these frauds to him, and that this official, on investigation, refused to allow commissions to be

issued to the local Democratic officers who had received the benefit of the fraudulently scratched ballots at this precinct.

A. B. Frenkle, also appointed Republican judge, and who swears he always voted the Democratic ticket except at the spring election of 1894, when he voted for the Republican candidate for mayor, swears that a very large number of ballots with the judge's initials on the back thereof, all ready to be delivered to voters, were kept piled up all day, and that he was surprised to notice the pile greatly reduced when he came back from dinner; that he saw the judges throw a little bundle of papers into the stove; that he saw one of the judges in the feed bin on his hands and knees fixing paper, and, on asking him what he was doing there, the judge replied, that he was "fixing rejected ballots;" that he was greatly surprised at the overwhelming majority for the Democratic candidate for prosecutor at the precinct and at the precinct going Democratic; that it had gone Republican at the spring election, and that he had heard a large number of Democrats and ex-Confederates say, just before the election, that they were dissatisfied with the hard times and with their party, and that they were going to vote the Republican ticket.

The soaping of the window at this precinct by the judges, the frequent presence of Findly and other heelers in the polling place, and the fact that the precinct went Republican at the spring election are shown by the testimony of numerous witnesses.

There were marked as voting on the poll books the names of 90 persons who could not be found in the thorough canvass of the precinct by the committee of public safety, made a few days after the election. This canvass also revealed the fact that many of said 90 names were registered from tenantless houses and vacant lots.

James D. Saunders testified that he peeped in the polling room through a place where the soap had rubbed off from the window and saw Morrison putting papers into the top of the ballot box and turning the crank by means of which they were conveyed into the box; that this was done at a time when no vote was being or had just been cast by a voter, and that he saw Morrison repeat the operation several times.

Another witness declares that he cast his ballot at the precinct early in the morning, his being the seventh ballot that was cast, and that the poll book reported his voting number as 300.

The Republican challengers and witnesses were, of course, excluded from this precinct.

There is much more testimony in the record which is pertinent, but it is not necessary to set it out.

Enough has been stated to demonstrate that extensive frauds were perpetrated at the precinct by the election officers in the interest of the Democratic candidates. Indeed, the poll was perfectly saturated with corruption. As a consequence of this, the returns and also the ballots, which passed through corrupt hands, are so tainted with it as to be inadmissible as evidence and unworthy of credit. They can not be looked to for the purpose of purging the poll and ascertaining the honest vote cast. Indeed, the ballots are not in the record at all, nor is there before the committee any satisfactory testimony to which they can resort in order to find out the true result. They, therefore, cast the entire precinct out of the count. According to both reason and authority this is the proper course to pursue. (McCrary on Elections, secs. 536, 537, 539, 541, 547, and 548; 11 Kans., p. 308; 1 Bart., p. 275; 2 Bart., pp. 600 and 822; Smith, p. 367.)

THE SEVENTH PRECINCT, SECOND WARD.

At this precinct gross frauds were also committed.

This is one of the precincts in which the witness Bradley testified that heavy fraudulent registrations were made.

The canvass of the committee of safety, carefully made soon after the election, showed that 270 persons registered and marked as being voted on the poll book could not be found, and that many of these persons were registered from vacant lots, tenantless houses, and houses incapable of holding so great a number of persons.

Witnesses whose names were marked "voted" on the poll books also swore that they did not vote.

The very large vote returned in the precinct was also indicative of the dishonesty of the officers of the election. At the Congressional election in November, 1892, the total vote polled was only 243, Mr. Tarsney receiving 53 votes more than Webster Davis, his Republican competitor. At the election for mayor in the spring of 1894, the total vote polled was only 246, Webster Davis, the Republican candidate, receiving a majority of 2 over his Democratic and independent Democratic competitor. But at the election in question, although several credible witnesses, who were around the polls all day, swore that there was a very light vote polled; the total vote returned was 514, of which there were returned for Mr. Tarsney 449 votes, and for Mr. Van Horn 57 votes, the remaining 8 votes having been returned for other candidates, thus making the plurality of Mr. Tarsney at this precinct, according to the return, 392 votes.

John L. Corum testified that he handed a Republican ballot to the judges and that they did not put it in the ballot box, but that they substituted another ballot for his and put it in.

A. B. Olsen testified to having found a Republican ballot with the initials of the election judges and the voting and registration number of the voter upon the back of it—a ticket which had evidently been voted—under the wooden sidewalk, right in front of the polling place, on the Saturday following the election.

But there is conclusive proof upon the face of the poll book of this precinct of the fraudulent voting by the election officers of 200 falsely registered names which appear upon the book.

This poll book was furnished to the election officers by the recorder of voters. It was simply a list of the names of persons registered for the precinct, with their registration number, residence, and color copied from the registration books in his office.

The law required the election officers to number each voter upon this poll book in the order in which he voted. Now, an examination of the poll book of this precinct reveals the astonishing fact that when the names of the first 200 voters recorded thereon as having voted, are arranged in numerical order of their voting, they appear to have cast their votes in exact order of the alphabet, viz, first, those whose names commenced with A, second, those whose names commenced with B, and so on. It also appears that every one of these first 200 names were marked as names of colored men.

Of course, it is simply inconceivable that the first 200 voters at this precinct, on election day, could have actually voted in exact alphabetical order, and could all have been colored voters. The inference is irresistible that the election officers simply marked as voting these 200 fraudulently registered names from the poll book and stuffed the ballot box with corresponding ballots which were counted and returned.

It is a significant fact, in this connection, that Samuel W. Smith, Sidney A. Mayfield, and Thomas Jackman, each of whom swore that he voted immediately upon the opening of the polls in the morning, were reported on the poll book by voting numbers 205, 206, and 207, respectively.

Much more might be added with respect to the frauds committed at this precinct, but it is certainly unnecessary. The conclusion that they were perpetrated in the interest of the entire Democratic ticket is irresistible. Their extent baffles inquiry. It is not known at what point the corrupt officers of election stopped short in their dishonest practices. It is very plain that the fraudulent alphabetical ballots numbered 200, and it also clearly appears, from what has been stated, that an indefinite number of additional fraudulent ballots were counted and returned. The returns are tainted, the ballots are not in the record, and even if they were, could not be received as evidence entitled to credit; nor is there any kind of evidence before the committee by which the poll can be purged and the honest vote be ascertained. It must therefore be thrown out entirely.

THE SIXTH PRECINCT, SECOND WARD.

This is one of the precincts to which fraudulently registered names were transferred from the fifth precinct, as testified by Bradley.

The canvass of the committee of safety shows that 341 persons registered and marked on the poll book as voting could not be found, and that a great many of such names were registered from vacant lots and houses which had been unoccupied for months.

Numerous witnesses testified that they had long resided in houses from which names were registered, and that no persons bearing such names ever lived there.

Other witnesses whose names were marked "voted" on the poll book swore that they did not vote at the election.

The total vote of the precinct for Congress at the November election of 1892 was only 155, Mr. Tarsney carrying it by a plurality of 62 votes. At the municipal election in the spring of 1894 the total vote cast was only 186, the Republican candidate for mayor carrying it by a plurality over his strongest competitor, the Independent Democratic candidate, and polling within 16 votes as many as were polled by both his competitors.

Witnesses who observed the polls during the entire day of the election in contest, testify that it was a very quiet election and very poorly attended by the voters, and yet the total vote returned is 509 votes, of which 420 were returned for Mr. Tarsney, 84 for Mr. Van Horn, and 5 for another candidate. Thus the plurality returned for Tarsney was 336.

The poll books of this precinct also disclose the first 200 names recorded therein as voting to be in exact alphabetical order and to be marked "colored." Here, then, as in precinct No. 7, there were 200 fraudulently registered names on the poll books that were voted by the officers of election. It is quite easy to understand, in the light of these alphabetical frauds in the Sixth and Seventh precincts, why Owsly and his coconspirators were unwilling to have honest Republicans appointed officers of election, and why the Republican challengers and witnesses were excluded from the polls. The fraud here committed, as in the Seventh precinct, inured to the benefit of Mr. Tarsney. Here, too, as there, it is impossible to determine its extent. The canvass of the

committee of public safety shows that, after deducting the alphabetical names, there are still 141 names of persons registered and reported upon the poll books as having voted who did not live in the precinct. Many of this number were evidently illegally voted—how many it is impossible to tell, for, while this canvass is doubtless reasonably accurate, still it does not impart absolute verity.

In this connection it should be noted, too, that, after deducting the 200 alphabetical votes, the vote returned at this precinct was still considerably over 100 votes greater than the total vote cast in the precinct at either the Congressional election of 1892 or the spring election of 1894. There is nothing in the record by which the vote at this precinct can be purged. Like the vote in the Seventh precinct, it must be wholly rejected.

FIFTH PRECINCT, SECOND WARD.

Attention is now called to the Fifth precinct of the Second ward.

Here, too, frauds of the most outrageous character were perpetrated by many persons, including the officers of election. These frauds were unquestionably committed in the interest of the Democratic candidates, except justice of the peace and constable. For these offices the Republican candidates, Owen W. Kreuger, for justice, and Jeff D. Brennan, for constable, received the support of the conspirators, and were accorded as many votes as were returned for the Democratic candidates generally.

It is true that Mr. Van Horn and Mr. Smith, the Republican candidate for judge, were returned about 140 votes more than the other Republican candidates, and that Mr. Tarsney and Mr. Newhouse, the Democratic candidate for judge, were returned about 140 votes less than the other Democratic candidates; but this fact indicates not that fraud was committed in favor of Van Horn and Smith, but simply that not quite so much fraud was practiced against them as against the other Republican candidates. Indeed, while the record abounds in strong evidence that these election conspirators were continually working for Kreuger and Brennan, and for all the Democratic candidates except their opponents, yet there is not the slightest suggestion in the testimony that they showed any interest in Van Horn or Smith, much less gave them any assistance.

What has heretofore been stated generally concerning the character of the election officers, the method of their appointment, and the exclusion of the Republican witnesses and challengers from the voting places is applicable to this precinct with peculiar force.

It will be remembered, too, that this is the precinct where the heaviest registration of the street gangs was made and from which some of this registration was transferred to the Sixth and Seventh precincts for fear the enormous registration in this precinct would attract attention and lead to exposure.

The report of the committee-of-safety canvassers shows that they were unable to find 400 of the persons registered and recorded as voting on the poll book, and that many of these names were registered from vacant lots, tenantless houses, and other impossible places.

The total vote returned for Congressman from the precinct in 1892 was only 351, although frauds were then and there practiced for the Democratic ticket, according to the testimony of Bradbury and other witnesses.

At the spring election for mayor in 1894 Bradbury also swore that great frauds were perpetrated in favor of the Democratic ticket, and

yet the total vote returned was only 377. But at the election in contest, although witnesses swore that the attendance at the polls was very light, yet the total vote of the precinct was returned at 621 votes, of which 413 were returned for Mr. Tarsney, 201 for Van Horn, and 7 for an independent candidate, thus making the plurality for Mr. Tarsney 212.

Here, too, we find, from an inspection of the poll book, that the election officers, as in the Sixth and Seventh precincts, voted 200 fraudulently registered names of colored voters in exact alphabetical and numerical order.

Bradbury swore that George A. Pierce, the Democratic committeeman, who obtained from him the fraudulently registered names to transfer from this poll to the sixth and seventh precincts, and who was also a Democrat judge at the election, told him, before the election, that Owsly was going to give him the ballots in advance, for the perpetration of this fraud. He also swears that, after the election was over, Jeffrie, a Democratic judge of this precinct, confessed to him that from 600 to 800 straight Democratic ballots, with Kreuger's and Brennan's name written upon them, were put in the ballot boxes of the Second Ward, at Kreuger's drug store, the evening before the election. Jeffrie also stated to the witness that the reason why nearly all of the fraudulent names on the poll book in this precinct were voted was that May came in during the day and said that Tarsney was running behind out in the country.

That the fraud practiced by the election officers at this precinct was not confined to these alphabetical ballots, is clearly established.

A number of witnesses testify that many persons registered and marked as voting upon the poll books, whose numbers thereon are higher than 200, never lived at the places from which they were registered.

Witnesses who are numbered higher than 200 on the poll book and marked there as "voting," also swear that they did not vote at the election at all.

Another witness testifies to the inexcusable delay of the judges to put his ballot into the box and the efforts to dismiss him without having done so, and of his having finally to leave the voting place without seeing his ballot properly deposited.

Here, as in precincts 6 and 7, it is impossible to determine the extent of the wrong that was committed, and the entire poll must therefore be thrown out.

THE OTHER PRECINCTS.

There are a number of other precincts in which frauds are charged to have been perpetrated in the interest of Mr. Tarsney and the Democratic ticket and in which the evidence was quite strong in support of the charge. For instance, at the precinct of Elmwood repeating doubtless occurred, and in the Second precinct of the First Ward, and in the Twenty-seventh precinct of the Sixth Ward, in each of which precincts heavy majorities were returned for Mr. Tarsney. Certified copies of the poll books offered in evidence at the argument of the case disclose upon their face, the one 27 and the other 42 fraudulent alphabetical votes to have been cast, counted, and returned by the officers of election.

But the committee do not feel that it is necessary to analyze the evidence relating to any more precincts. The testimony relating to those already referred to seems to them to be decisive of the contest and to determine it in favor of Mr. Van Horn. The plurality returned for Mr. Tarsney in the district is, as heretofore stated, 745. This plurality is,

however, obtained by counting for him the pluralities returned for him in the Fifth, Sixth, Seventh, and Fifty-second precincts, which are, respectively, 212, 336, 392, and 180, or an aggregate plurality in all of these precincts of 1,120. The vote of these precincts, however, for the reasons heretofore given, should be thrown out and, as a consequence, Mr. Van Horn is elected by a plurality of 375 votes in the district.

THE RESOLUTION TO TAKE ADDITIONAL TESTIMONY.

The resolution of Mr. Tarsney to open up the case and take additional testimony next requires attention.

To this matter your committee has also given careful consideration.

An examination of this resolution and of the two affidavits filed by Mr. Tarsney in support thereof show that his application is confined to two subjects. In the first place, he desires to show an agreement between friends of Mr. Van Horn and persons controlling political action in the Second Ward of Kansas City. In the second place, he wants to prove that 100 of the 200 alphabetical ballots in the Fifth precinct of said ward were voted for Mr. Van Horn.

His affidavit, so far as it relates to the first matter, is couched in exceedingly vague and indefinite language and creates a strong belief that the alleged agreement has no existence except in mere rumor. He simply says that he was informed in September, 1895, by certain prominent and honorable citizens of Kansas City, influential members of the Republican party, that prior to the election they had been informed and led to understand that an agreement had been made between certain parties representing Van Horn in the management of his canvass and certain other parties prominent and controlling political action in said ward, by which a certain number of votes were to be illegally counted for Van Horn, in consideration that he would refrain from attacking the character of the election officers in a newspaper edited by him. He does not state the name of his informants, nor the names of the persons from whom they got their information that this agreement had been entered into, or even the names of either of the parties to the agreement.

There are no other affidavits than that of Mr. Tarsney before the committee concerning this matter.

No individual has made oath to knowledge of it, nor intimated, much less sworn, that he could or would give any testimony concerning it.

The absence of these is of itself according to the following authorities, fatal to the application: McCrary on Elections, section 418; Giddings against Clark, Digest of Election Cases, Forty-second Congress; Thobe v. Carlisle, Mobley, page 523.

To open up the case for testimony upon statements so indefinite and insufficient as these would certainly be bad practice and would be setting a dangerous precedent. Undoubtedly a stronger showing should be made by the sitting Member, whose term is already half expired, as to the probability of his being able to establish the alleged agreement in order to obtain the delay in the determination of the contest which the granting of his prayer would involve.

It may not be amiss to state, in this connection, that if any such agreement as is alleged was ever made by the Van Horn managers their principal certainly did not realize anything upon it, for the evidence shows that Mr. Tarsney received 1,282 and Mr. Van Horn only 342 votes in the Second ward.

Concerning the application to prove that 100 of the 200 alphabetical ballots in the Fifth precinct were voted for Mr. Van Horn, it is important to observe the kind of evidence which Mr. Tarsney proposes to

take to establish this fact. He desires simply to take the testimony of persons who, it is alleged, inspected these ballots, in a recount of them, had in a contest for a local office in October, 1895, which persons, it is alleged, will swear that said 100 ballots were straight Democratic ballots with Mr. Tarsney's name crossed off and Mr. Van Horn's written thereon in the handwriting of two persons, each person doing the writing on about one-half of the ballots.

It seems to the committee that this application of Mr. Tarsney is made at a very late day. When Mr. Van Horn closed the taking of his testimony in this case Mr. Tarsney and his attorneys were fully apprised of what had been sworn to; they knew that witnesses had testified to the character of the election officers at this Fifth precinct, the manner of their appointment, and the exclusion by them of the Republican challengers and witnesses. They knew, too, that witnesses had sworn to the fraudulent and corrupt practices of the judges and clerks at this precinct and to the doing of many illegal acts by them, including the voting of these very fraudulent alphabetical ballots. It must, therefore, have been very apparent to them that the returns from this precinct had been tainted with fraud so as to render them incompetent evidence, and that the entire precinct would have to be thrown out by the count, as demanded by Mr. Van Horn in his notice of contest, unless it could be purged by other testimony. Why, therefore, did not Mr. Tarsney proceed at once to inspect these ballots and prove for whom they were voted, if this was competent and credible evidence? The excuse offered by him is that there was no provision in the law of Missouri for inspecting the ballots in this contest for a seat in Congress, the provisions of the State law being confined simply to inspection of ballots in contests for local offices. He also cites decision of the State court that even the grand jury could not inspect them in the investigation of election frauds. The Constitution of the United States, however, provides that each House shall be the judge of the elections, returns, and qualifications of its own Members, and to enable the House of Representatives the more readily to exercise this prerogative, Congress passed a statute, prescribing the methods to be observed in contests for a seat therein, under which statute this contest was being conducted. The Constitution and this statute, enacted pursuant thereto, are, by the very provisions of the Constitution, the supreme law of the land, and the judges in every State bound thereby, anything in the Constitution or the laws of the State to the contrary notwithstanding.

The committee believed that on his application any competent court could and would have accorded Mr. Tarsney an inspection of these ballots if they were proper evidence to be considered in the case.

In addition to this, an open and notorious recount of these very ballots, in a local contest growing out of said election, was being had in Kansas City at the very time testimony in this case was being taken. Certainly Mr. Tarsney could then have had said ballots inspected instead of waiting until long after the testimony closed to obtain it in a later recount, as his affidavit shows he did.

The committee also submit that the result of this contest would not be changed even if the competency and credibility of the testimony sought to be taken is conceded and the proof allowed to be made, for under the view of the evidence in this case already presented, Mr. Van Horn is elected even if the returned vote of this Fifth precinct is counted. The same result would exist if these 100 alphabetical votes were deducted from the returned vote of Mr. Van Horn and added to the returned vote of Mr. Tarsney.

It is proper to say, however, that it is not denied by Mr. Tarsney that he received himself nearly 100 of these 200 alphabetical ballots.

That negligence and the immateriality of evidence proposed bar applications for leave to take testimony in contested election cases is laid down in the following authorities: The Law of Elections, Paine, sections 1025 and 1026; McCrary on Elections, sections 417 and 418; Giddings v. Clark, Digest of Contested Election Cases, Forty-second Congress; Elsworth, page 8; Smith, pages 18 and 91; Mobley, page 523; First Bartlett, pages 223, 275, and 482.

But the committee believe that the application to take this testimony should be denied for an additional reason. The proposition is to offer these alphabetical ballots in evidence, or, what is practically the same thing, prove their contents and condition by witnesses who saw them at the time of this recount in October, 1895. Of course it is expected that such evidence will be received and considered by the committee and the House when so taken. It is submitted, however, that such evidence is not competent and credible, and ought not to be regarded, as hereinbefore stated in this report. The ballots, like the returns, are tainted. They have passed through the hands of fraudulent and corrupt officers of election, and thus their credibility and integrity is destroyed.

This principle is one laid down in all the text-books on the subject, and has found frequent recognition in the determination of contested election cases by the House, some of which authorities have been heretofore cited in this report. Being founded in reason and experience, this principle ought not to be disregarded in this instance.

It will be observed, too, that Mr. Tarsney's proposition was very limited in the scope of the inquiry contemplated. It was not only confined to the Fifth precinct, but it also stopped short with the examination of the first 200 ballots, to wit, the alphabetical ballots, and left entirely unexplored the 400 other ballots, a large number of which were also clearly impeached for fraud by direct testimony in the case, aside from such inferences as are drawn against them owing to their having passed through the hands of corrupt election officers.

The committee were not disposed, however, to take advantage of any mere technicality in the consideration of this subject, nor to close the door against the taking of any evidence, which might reasonably be supposed would enable them to reach a correct conclusion in the case. They recognized the rights of the honest voters at this election and desired, if possible, to conserve them under the legal principle that the entire vote of a corrupted poll ought not to be thrown out except it be impossible to purge it. Conscious that there was nothing in the evidence that would enable them to purge the vote, and realizing that the resolution of Mr. Tarsney, for the reasons stated, would not furnish them such evidence, they considered whether it was possible for them to extend the resolution by amendment so as to secure additional and competent testimony which would enable them to pick up the tangled thread of fraud woven by these dishonest election officers, separate their lawful from their unlawful acts, and ascertain the true and honest vote of the contested and fraud-ridden precincts.

With this object in view, various propositions were submitted by members of the committee and carefully considered, some contemplating extended examination of all the ballots, and others looking to the taking of verbal testimony of the voters as to how they voted at the election.

Upon the proposition to make extended inquiry of the ballots, however, the committee were confronted with the well-known principle already often adverted to, that, having passed through corrupt hands, they were incompetent as evidence and unworthy of credit.

In addition to this original taint it has come properly to the knowledge of the committee that, since they were deposited in the office of the recorder of voters, Mr. Owsly, a most unworthy custodian, these ballots have not only been loosely kept and exposed, but there is also positive evidence that they have actually been tampered with. It has been legitimately shown that right after the election contests were commenced by nearly all the defeated Republican candidates for local offices in the courts of Kansas City. Some of these candidates recovered possession of their offices, and in other instances the cases are now pending undetermined, having been delayed by continuances and changes of venue taken by the defendants. In one of these cases, a recount having been ordered by a State court, those empowered to make the same repaired to the office of the recorder of voters for that purpose on the 5th day of March, 1895. When they came to the ballot boxes for the fifth precinct for the Second Ward they found one of them open and all the ballots therein unstrung, although all of them were perforated, showing that they had been recently strung.

It also appears to the committee, by affidavits submitted on the hearing of the Tarsney resolution and not denied by him, that, after the election and while in the custody of the recorder of voters, certain returns of the election and ballots cast thereat from seven precincts were fraudulently forged and changed so as to show the election of defeated Democratic candidates for prosecuting attorney and marshal. Since this time this Republican candidate for prosecutor has recovered possession of his office through the medium of the courts, and the Republican candidate for marshal now has an action pending for the recovery of his office.

Certainly no credit whatever can be attached to ballots so exposed and contaminated as these have been. The law requiring careful preservation of ballots as an indispensable requisite to a recount of them is applicable here, but is so well known as to render a citation of the authorities unnecessary.

The proposition to take the testimony of the voters seemed to the committee to be equally futile and impracticable. Soon after the election, while the population was the same, when the facts were fresh in the memory of the people, when the opportunities to corroborate and contradict witnesses were present, and when perjury could readily be detected, this method might have been resorted to with some hope of success. But to attempt it now, after the lapse of sixteen months, under changed circumstances, in a population shown to be shifting and migratory, when the facts have faded from the memory of the people, under the opportunity to commit perjury with immunity which it would afford to the unscrupulous, would, in the opinion of the committee, not only fail to throw light upon the subject, but would rather tend to envelop it in still greater doubt and perplexity.

Your committee therefore are of the opinion that it would defeat rather than subserve justice to open up the case for new testimony. They therefore recommend to the House the adoption of the following resolutions:

Resolved, That John C. Tarsney was not elected to the Fifty-fourth Congress from the Fifth Congressional district of the State of Missouri, and is not entitled to a seat in the House.

Resolved, That Robert T. Van Horn was elected to the Fifty-fourth Congress from the Fifth Congressional district of the State of Missouri, and that he be admitted to his seat.

ROBERT T. VAN HORN v. JOHN C. TARSNEY.

FEBRUARY 15, 1896.—Referred to the House Calendar and ordered to be printed.

Mr. TAYLER, from the Committee on Elections, No. 2, submitted the following as his views:

The action of the committee, in refusing to order the taking of further testimony, relegates us to the evidence now in the case. This action of the committee furnishes, for the time being, at least, the rule of law for this case. It declares that all the testimony which can be considered is contained within the pages of the printed record. The legal effect of that testimony is, owing to the prevalence of fraud in certain precincts of Kansas City, that the returns from those precincts must be entirely disregarded. An unbroken line of precedents demands this. The result is to change the majority for the contestee into a majority for the contestant.

Reserving, therefore, my objections to the action of the committee in refusing to take certain testimony calculated to purge of their fraud the tainted returns, I concur in the finding of the majority, that on the evidence before the committee, the contestant is entitled to a seat in the House of Representatives.

I take this occasion, however, to record my disapproval of the action of the majority of the committee, in refusing to order testimony to be taken showing, by the ballots themselves, for whom the alleged illegal votes were cast.

Under the peculiar provisions of the election law under which this election was held the ballots were all preserved. Each ballot is marked with the voting number of the voter. An examination of the poll book reveals his voting number and his ballot will be found with its corresponding number. It is therefore easy to determine how and for whom any particular voter cast his vote. And it is, of course, quite as easy to determine what ballot corresponds to any fictitious name or illegal voter. Substantially all of the fraud shown to have existed in the fifth, sixth, and seventh precincts of Kansas City was expressed in the padding of the registration roll and poll book. Probably a thousand illegal votes were thus cast in these precincts. But each of these ballots, so fraudulently cast, represented a name on the poll book; each had its voting number and its corresponding name.

When the count was completed and the ballots and poll books were turned over to their proper custodian—the recorder of voters—the fraud was completely perpetrated, and its perpetrators had exhausted their fraud.

It is true that there is evidence of other fraud in these precincts, but it is trivial and could not, for a moment, standing alone, be deemed of sufficient gravity to call for a rejection of the entire return.

It is clear to me that these precincts, in which it is shown that frauds were perpetrated, can be substantially purged of their fraud and a conclusion be reached, fairly satisfactory, as to the honest vote of the several precincts. We can thus, with reasonable definiteness, appraise the fraud and be relieved from the necessity of invoking the dangerous and mischievous doctrine that a poll, tainted with fraud and not purged, must be entirely disregarded. This drastic method is never to be resorted to except in case of absolute and unavoidable necessity. The disfranchisement of honest voters thereby wrought is too grave a wrong to be permitted if, by any possibility, it can be averted.

I can find no testimony in the case which indicates that the ballots, now in the custody of the proper officials, are not the identical ballots which were fraudulently created. But, having been fraudulently placed in the ballot boxes, they were honestly counted. The whole scheme and philosophy of the fraud demanded that the tally sheets, the count, should correctly represent the ballots which were criminally born. To do otherwise would have been to perpetuate the definite and damning evidence of the crime, and I doubt not that each of those ballots to-day speaks for itself, a silent, truthful witness, declaring for whom it was counted, and in whose name it was cast or counted.

I am therefore convinced that, under these circumstances, it was the duty of the committee to take the testimony of the ballots and thereby, if the contestant was honestly elected, to say so with certainty. His title would no longer rest upon conjecture and inference, and the committee and the House would be forever relieved from the imputation of having acted in a partisan spirit.

The doctrine of throwing out entire returns by reason of fraud, while tolerable in theory and sometimes essential in practice, is, nevertheless, most vicious and unhappy in its application.

I doubt if a single instance will be found in a legislative contested election case where a proposition to strike out an entire return, if of the substance of the case, was decided on any other than party lines.

A principle, thus fostered and thus abused, is not a principle to be invoked, except where the exigencies of the case absolutely demand it.

R. W. TAYLER.

ROBERT T. VAN HORN v. JOHN C. TARSNEY.

FEBRUARY 18, 1896.—Referred to the House Calendar and ordered to be printed.

Mr. MAGUIRE, from the Committee on Elections No. 2, submitted the following as the

VIEWS OF THE MINORITY:

The undersigned members of the Committee on Elections No. 2, being unable to agree with the views and conclusions announced by the majority of the committee, respectfully submit the following:

The election returns of the Fifth Congressional district of Missouri show that Mr. John C. Tarsney received a plurality of 745 votes at the last election for Representative in Congress. From the testimony taken in support of Mr. Van Horn's contest, as set forth in the majority report, it unquestionably appears that in the fifth, sixth, and seventh precincts of the Second Ward of Kansas City some 600 false and fraudulent ballots were put into the ballot boxes and counted. It further appears that these 600 fraudulent ballots were prepared and numbered on the evening prior to the election by a combination of Republican and Democratic election officers in that ward; that on the morning of the election numbers corresponding with the numbers on the ballots, from No. 1 to No. 200 in each of said precincts, were entered on the poll books, almost in alphabetical order, opposite an equal number of fraudulently registered names, and the fraudulent ballots so prepared and numbered were by such election officers put into the ballot boxes. It further appears that during the day in those precincts some additional ballots were fraudulently numbered and put into the ballot boxes upon the names of registered voters who did not attend the polls on that day. Some of such ballots appear to have been deposited in the ballot boxes as voted upon names fraudulently registered. In these three precincts of the Second Ward Mr. Tarsney's plurality, as officially returned, amounted to 940 votes. It is therefore apparent that if those precincts should be thrown out, and the votes therein for Representative in Congress disregarded, Mr. Tarsney would be defeated by nearly 200 votes, regardless of the evidence concerning other precincts. The question, therefore, whether these precincts shall be purged or rejected from consideration, is the vital question in the case.

There is no evidence in the record by which it can be ascertained for whom the fraudulent votes were cast and counted for the office of Representative in Congress, and the majority of the committee contend that, by reason of the absence of such testimony, and by reason of the fact that the election officers in all of the precincts in the Second Ward are shown to have been guilty of participation in the frauds hereinbefore mentioned, and because the ballots were, for a time, in the custody of one Charles S. Owsley, whom they believe to have been a party to the frauds, not only should the returns from said precincts be

rejected, but the ballots themselves are so tainted with the presumption of fraud arising from these facts, that they, too, must be rejected and disregarded as evidence. The majority of the committee therefore conclude that as the contestant, Mr. Tarsney, did not produce the testimony of the voters themselves, showing that they did cast their votes for him at such election in said precinct, the entire vote cast in all of said precincts must be rejected and disregarded in ascertaining the result of the election for Representative in Congress from the district.

We do not assent to this view of the matter. We concede that the returns made by the election officers in those precincts are discredited and are of no value as evidence, but there is no showing whatever that the ballots have been tampered with since they were deposited in the ballot boxes. On the contrary, the evidence very conclusively shows that whatever frauds were committed in the election in those precincts were committed before the closing of the polls by placing false and fraudulent ballots in the box, which were afterwards counted. There is no evidence tending to show that the ballots were at any time in illegal custody since they were cast. Charles S. Owsley, in whose custody they were for a time, was the recorder of voters of Kansas City, and as such was the legal custodian; and while there is some evidence tending to show that he was cognizant of frauds in the registration of voters prior to the election, there is not the slightest evidence tending to show that he interfered in any way with the ballots after the election, nor is there any evidence tending to show that he permitted others to interfere with or to have unlawful access to the ballots.

There is evidence that the ballots in one of the boxes were unstrung, although perforated, as if they had at some time been strung, but there is no evidence that they were not put into the box in that condition by the election officers. The evidence concerning Mr. Owsley's alleged participation in the election frauds is consistent with his innocence, although his refusal to appoint the watchers and challengers suggested by the Republican committee was wholly unjustifiable.

There is not a scintilla of evidence in the case tending to show that any of the frauds committed in the election were committed with any view whatever to promoting the election of Mr. Tarsney to Congress, or that Mr. Tarsney had any knowledge whatever that such frauds or any of them were being, or were to be, perpetrated, and there is no evidence that those who perpetrated the frauds had the slightest desire, or made the slightest effort to aid Mr. Tarsney as against Mr. Van Horn or any other candidate for Representative in Congress. The frauds seem to have been perpetrated for the sole benefit of a few Democratic and Republican candidates for local offices by political bushwhackers who can not fairly be said to represent or to even belong to any party.

So far as the evidence shows, the ballots are now, with respect to the vote for Representative in Congress, in the same condition in which they were deposited in the ballot box on election day. Indeed, it does not seem possible that any rational man, however wicked he might be, could have the slightest motive for changing the ballots as to the vote for Representative in Congress, when such change would only destroy the correspondence of the ballots with the returns which had already been made. The frauds were committed not in miscounting the ballots, but in fraudulently putting ballots into the ballot box that were not legally voted. The ballots are, therefore, so far as the evidence in the case shows, as reliable to-day as they were at the close of the election on election day. They have been preserved in legal custody, according

to the law of Missouri, and can be reached and examined by this House through any legally constituted and duly authorized agency for that purpose, and, in our opinion, a proper regard for the sacredness of the ballot requires that, if it be possible, even at this time, this House should ascertain by an inspection of the ballots, in connection with the evidence now before the House, for whom the legal votes of the precinct were cast.

It now seems to be possible, with reasonable certainty, to identify and segregate the fraudulent ballots from those that were regularly cast by the legal voters of the precincts in question, and to ascertain the true result of the vote in each of said precincts.

The evidence taken by the parties being manifestly incompetent in this respect, and the means of ascertaining the true result of the election being within reach, it seems to us that the House should, of its own motion, proceed to secure the evidence of the ballots themselves rather than to disfranchise the voters of those precincts by rejecting all of the legal ballots merely because of the mingling of some illegal ballots with them.

But it is not necessary for the House to proceed in this matter upon its own motion. Mr. Tarsney, early in the present session, offered and urged the passage of a resolution reopening the case for the purpose of taking further evidence concerning these very matters, with a view to purging the polls in these precincts of the illegal ballots and ascertaining the true result of the election in such precincts, according to the ballots actually cast by legal voters. In support of that resolution Mr. Tarsney presented two affidavits and also certain newspaper statements published in Kansas City, Mo., which, with other newspaper statements from the same sources offered by Mr. Van Horn, were, by agreement of the parties, to be considered by the committee in determining whether or not to recommend the passage of the resolution in question.

In his affidavit Mr. Tarsney states that in September, 1895, he was informed by certain prominent and influential members of the Republican party in Kansas City that, prior to the election, according to the information which they had at the time, an agreement had been made between the fraudulent election officers in those three precincts and certain parties representing the interests of Mr. Van Horn, the contestant here, by the terms of which a certain number of illegal votes were to be counted for Van Horn in consideration that he (Van Horn) would refrain from attacking the character of said election officers in a newspaper edited by him; that in October, 1895, he (Tarsney) requested certain clerks of the commissioners of elections, during a recount of the votes cast for the various candidates for a certain local office, to examine the ballots cast in the said fifth precinct, and ascertain therefrom the names of the persons voted for for Representative in Congress on the ballots numbered from No. 1 to No. 200 (the ballots so numbered being conceded by all parties to have been fraudulent); that the clerks made such examination and reported, and stated that they will swear that on 100 of said ballots the name of Mr. Tarsney was crossed off and the name of Mr. Van Horn was written in place thereof.

In addition to the affidavit of Mr. Tarsney, Wallace G. Miller, one of the conspirators who committed the frauds mentioned in the Second Ward of Kansas City, and who subsequently confessed the conspiracy and fraud, made a statement which is filed in support of Mr. Tarsney's motion, specifically setting forth the manner in which 600 fraudulent ballots were prepared and numbered and put into the ballot boxes in

said precincts. His affidavit, filed herein on behalf of contestant, also shows that 200 fraudulent ballots were so put into the ballot box in each of said precincts, and that the ballots so fraudulently put into each box were numbered from No. 1 to No. 200 in each precinct. His specific knowledge, it is true, goes only to the sixth and seventh precincts, his knowledge of what was done in the fifth precinct being based merely on the general arrangement, and on his knowledge of the fact that 200 prepared ballots were taken by one of the conspirators to be similarly used in that precinct. His statement that the fraudulent ballots so deposited in the ballot boxes were marked and voted substantially in alphabetical order is fully corroborated by the poll books.

In addition to the affidavits, the newspaper statements which we have mentioned, showing more in detail how the frauds in those precincts were committed, are to be considered under the agreement between the parties as supporting Mr. Tarsney's application, and all this must be considered in connection with the printed testimony herein.

In the report of the majority of this committee it is assumed that Mr. Tarsney's application to reopen the case for the purpose of taking further testimony is confined merely to the purpose of showing an agreement between the friends of Mr. Van Horn and persons controlling political action in the Second Ward of Kansas City concerning the marking of illegal ballots, and proving that 100 of the 200 "alphabetical ballots" in the fifth precinct of that ward were voted for Mr. Van Horn.

We think that this is too narrow a construction to put upon the application of Mr. Tarsney. He applies for the reopening of the case for the purpose of taking additional testimony. The resolution embodying his request puts no such limitation upon the scope of the evidence to be taken, as it is suggested in the majority report. His showing in support of the resolution goes at least to the purging of the fifth, sixth, and seventh precincts of the Second Ward of the illegal votes cast therein, so far, at any rate, as votes cast therein are admitted to have been illegal, and we think it is broad enough to show that Mr. Tarsney, if permitted to take further testimony, will be able to entirely segregate all illegal votes cast in said precincts from the legal votes cast therein, and, by inspection of the ballots, to obtain and return to the House a true and correct count of all of the legal ballots cast in said precincts. It appears that under the law of Missouri the ballots are all numbered in consecutive order, and that the number of a ballot voted by each person, or deposited in the name of each person, is entered in the poll book opposite the name of such person, and that, upon examining the ballots and comparing the numbers which they bear with the poll book, the ballots deposited in the name of each person whose name is marked "voted" upon the poll book can be identified and distinguished from all other ballots.

The names upon which ballots were fraudulently deposited in the ballot boxes in those precincts being known and clearly established by the evidence, a mere comparison of the ballots with the poll books and with the evidence showing that the ballots were fraudulently deposited in the ballot boxes will enable this House to purge the polls, to segregate the fraudulent ballots from the legal ballots, and to obtain an accurate count of all legal ballots cast in such precincts. We think that this showing is entirely sufficient to satisfy the House that, if permitted to take the additional testimony which he asks leave to take, he can show the true vote in all of these precincts. We think that the showing is sufficient to justify the taking of additional evidence—

at least the evidence of the ballots themselves—in the fifty-second precinct of Kansas City, and that it is clearly sufficient to support the application for leave to take further testimony in so far as it relates to the fifth, sixth, and seventh precincts, at least. But it is urged that, even if Mr. Tarsney's showing be sufficient *prima facie* evidence that he has been guilty of gross laches, in that for about one year from the time of the institution of this contest he made no effort to secure the evidence which he now asks leave to take. We think that Mr. Tarsney's explanation of that delay is sufficient. He shows, first, that he was not aware of the alleged agreement concerning the giving of a certain proportion of the fraudulent votes cast in the precincts in question to Mr. Van Horn until September last, and that he did not know for whom the fraudulent ballots in those precincts were cast for Representative in Congress until October, 1895. He further shows that under the laws of Missouri he could not by any means secure access to the ballots nor use the ballots as evidence in any way until after the expiration of his time for taking testimony upon such contest, and that he can now secure access to such ballots as evidence in this contest only by invoking the aid of Congress.

In the report of the majority of the committee it is correctly stated that the Constitution of the United States is the supreme law of the land, and that the provision therein that each House of Congress shall be the sole judge of the qualification and election of its own members is binding upon the States, and that no State law can prevent Congress from resorting to any means necessary to the exercise of its constitutional right to judge of the qualification and election of its own members; but we do not agree with the majority that any court in the land has power in aid of that Congressional prerogative to compel officers of a State, county, or municipality, contrary to a State law, to exhibit ballots cast at an election held under the laws of such State for local officers and for Representatives in Congress to any officer or commissioner other than a duly authorized representative of either of the Houses of Congress, and we do not believe that Mr. Tarsney was guilty of any laches in failing to appeal to the courts for the purpose of having the legal custodian of the ballots in question deliver them, or exhibit them, to any notary public, or commissioner, or other officer taking testimony in the contested-election case of Van Horn against Tarsney, because such application would have been idle and futile.

It is urged that Mr. Tarsney could have ascertained how the fraudulent ballots in these precincts were cast for Representative in Congress as early as April, 1895, because "an open and notorious recount of these very ballots, in a local contest growing out of said election, was being had in Kansas City at the very time testimony in this case was being taken." And upon this showing it is urged that "certainly Mr. Tarsney could then have had such ballots inspected instead of waiting until long after the testimony closed to obtain it in a later recount as his affidavit shows he did." The answer to this is, first, that the recount of the ballots then proceeding was not an open recount. Under the laws of Missouri it appears that recounts are secretly conducted, and the right of Mr. Tarsney even to have an officer, who under the law had a right to be present at such recount, to inspect the ballots for the purpose of ascertaining for whom they were marked for Representative in Congress, was seriously claimed, and is still seriously claimed to have been illegal, even to the point of criminality. Indeed, it appears that upon the publication of the affidavit or statement of the officers who did inspect the ballots, for this purpose, in the fifth precinct, during the recount for a local office in October last, Mr. Small,

attorney for contestant herein, immediately visited the office of the commissioner of elections and warned the clerks who had made the inspection and thereafter made affidavit that certain of the fraudulent ballots were marked for Mr. Van Horn, the contestant herein, that their conduct was illegal and that they had, by making such inspection, rendered themselves liable to criminal prosecution by indictment. Whether or not he threatened them with such indictment does not appear. It is asserted that he did so threaten them, but he denies having made the threat. Why Mr. Tarsney should have been so anxious to ascertain the true condition of the ballots and Mr. Van Horn's representatives at the same time so anxious to prevent the true condition of the ballots from being made known, may afford reasonable grounds for conjecture, but we do not care to further discuss it here. We cite the fact, as admitted by contestant's attorney, for the purpose of showing the difficulty under which Mr. Tarsney labored in attempting to ascertain how the illegal ballots were marked or cast for Representative in Congress.

We are satisfied that Mr. Tarsney could not by any means at his command have obtained the evidence of the ballots themselves prior to the meeting of this Congress in December last, and then only by the aid of Congress and under its direct authority. We think the evidence of the ballots themselves is the best evidence of the vote cast at the election for Representative in Congress, provided, of course, that the ballots fraudulently cast or put into the box can be clearly and certainly segregated from the legal ballots. This, as we have shown, can be done with certainty under the laws of Missouri.

The next and final question upon the application of Mr. Tarsney to reopen the case for the purpose of taking additional testimony is, would the purging of the polls in the fifth, sixth, and seventh precincts of Kansas City and the counting of the legal ballots cast therein for Representative in Congress overcome the showing otherwise made in the evidence that Mr. Van Horn was elected to Congress and that Mr. Tarsney was not elected to Congress. We believe that it would have that effect, assuming, without discussing the questions involved, that the evidence of frauds committed in the fifty-second precinct in which Mr. Tarsney received, according to the returns, a plurality of 180 votes, must be thrown out, and that there is no evidence offered or obtainable by which the poll can be purged of the fraudulent ballots now in the ballot box of that precinct. Yet, unless more than 550 of the fraudulent votes cast and counted in the fifth, sixth, and seventh precincts shall be finally deducted from the vote of Mr. Tarsney, in addition to taking from him the vote given him by the returns in the fifty-second precinct, he would still be elected, while if he is denied the right now to present what seems to be the best evidence of the true vote for Representative in Congress in the fifth, sixth, and seventh precincts, those precincts must be thrown out and it must be held that he was not elected.

We think the showing made in support of his application is sufficient to justify this House in believing that there is a reasonable probability that he may be able to show that less than 550 of the fraudulent votes cast in those precincts should be taken from him. This reasonable probability is sufficient to warrant the House in granting the application, if, indeed, the circumstances do not make that course the imperative duty of the House in seeking the ends of justice. We therefore recommend the adoption of the following resolutions:

Resolved, That the case of Robert T. Van Horn against John C. Tarsney be committed to the Committee on Elections, No. 2, for further consideration.

Resolved, That additional evidence be taken in said case, under such rules and in such manner as shall be adopted and prescribed therefor by the said committee, such additional evidence to be confined to the condition and custody of the ballots cast in the fifth, sixth, seventh, and fifty-second precincts of Kansas City in the Congressional election of 1894; to the segregation of the illegal from the legal ballots in such precincts, and to the recount of the legal ballots cast in such precincts for Representative in Congress, and to include also duly certified copies of all poll books of such precincts not now in evidence.

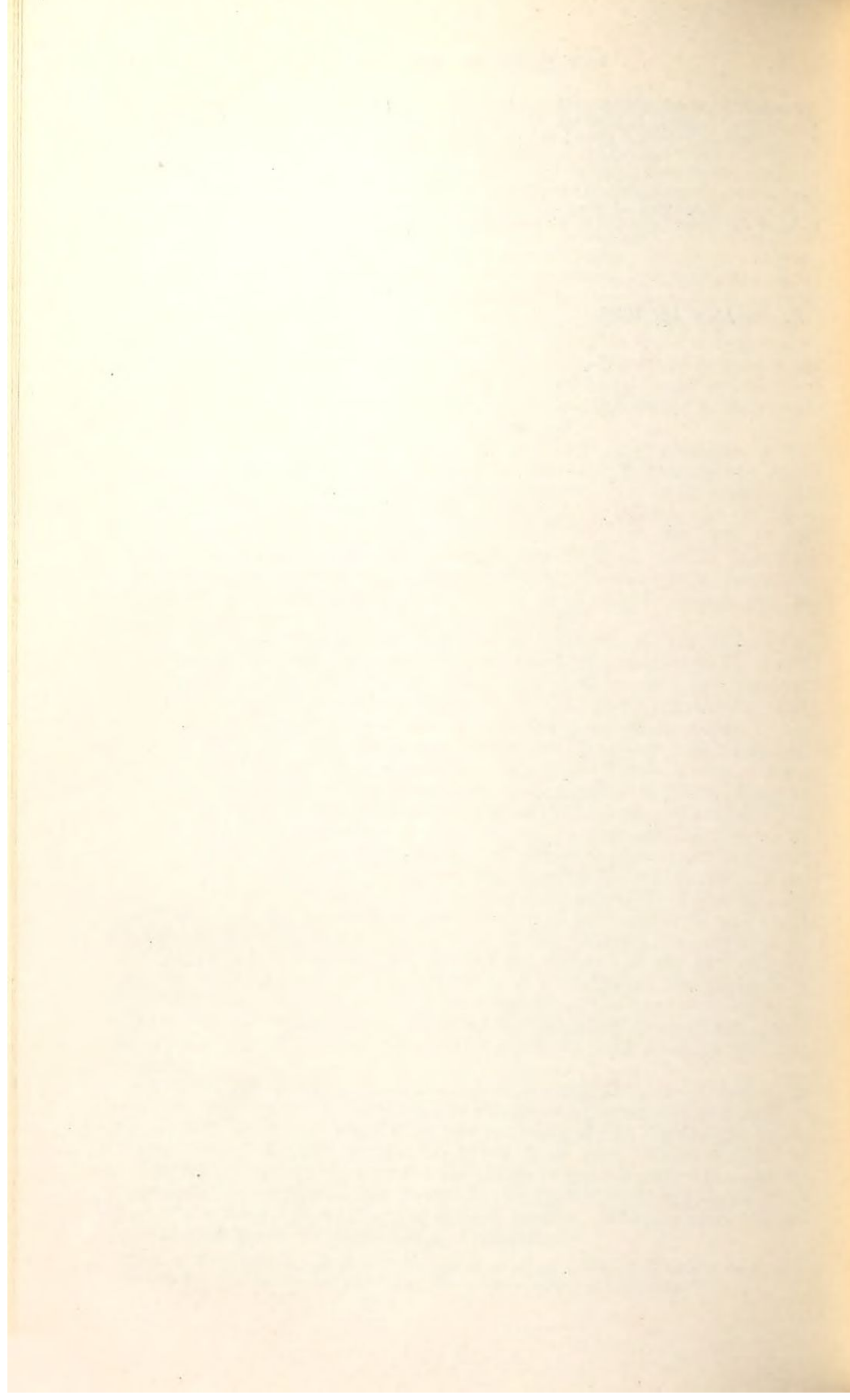
JAMES G. MAGUIRE.

J. W. BAILEY.

J. C. KYLE.

FEBRUARY 18, 1896.

O



KATE EBERLE.

FEBRUARY 13, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GAMBLE, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany H. R. 485.]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 485) for the relief of Kate Eberle, of East Dubuque, State of Illinois, have had the same under consideration, and submit the following report:

The bill is to authorize the payment, out of the funds in the United States Treasury, credited to the Sac and Fox tribe of Indians, the accrued annuities due Kate Eberle, an Indian woman of the Sac tribe, who, when a child of 6 or 7 years of age, was separated from that Indian nation.

The evidence shows that in the hurried flight of Black Hawk, after his defeat at the battle of Bad Axe, in 1832, the claimant became separated from her people and was found wandering alone in the forest by an escaped Indian of her tribe. They continued together, and after days of suffering and privation, were captured at a point on the Mississippi River, then known as Jordan's Ferry, now East Dubuque, by a white man, one Jordan.

A short time after her capture a boat load of prisoners from Prairie du Chien, in charge of a Government officer and bound to Rock Island, stopped at the ferry and Jordan took the little girl aboard, where she met her brother and sister, who were anxious that she be taken with them. The officer in command, while recognizing her as a prisoner, refused to take her with him, telling Jordan that he had better keep her, which he did, and since that time she has remained in the immediate vicinity of East Dubuque, and was thereby prevented from receiving her pro rata share by virtue of several treaties made between the United States Government and the Sac and Fox tribe of Indians subsequent to the period of the Black Hawk war in 1832.

The proof establishes the fact that she being an Indian, poor, and ignorant of the English language, and the laws and treaties of the United States, and incapable of bringing herself within the protection of the treaty of 1859, wherein it was provided—

That those who did not rejoin and permanently reunite themselves with the tribe within one year from the date of the ratification of said treaty should not be entitled to any of the benefits of its provisions.

It is further shown that she was not aware, until recently, of her rights to have participated in the annuities of her tribe; that she is about 70 years old, without property or income from any source and dependent largely upon her own labor and the voluntary contributions of others for support.

From the facts appearing in the testimony and other evidence establishing her identity, and the equity of her claim, your committee therefore recommend the passage of the bill, fixing the amount to be paid her at \$672.08, the same to be paid from the trust fund held by the Government and credited to the Sac and Fox tribe of Indians, the amount named being the per capita payment made to the Sac and Fox tribe of Indians, as shown by the letter and exhibit of the Commissioner of Indian Affairs, and is as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, August 7, 1894.

SIR: In compliance with your request of 2d instant, I inclose a statement showing the payments made to the Sac and Fox Indians from 1832 to 1859, both dates inclusive.

On the Auditor's statement, which you inclosed for reference, the number of Indians paid during the years 1833, 1834, and 1835 is not given. There were 6,400 paid in 1832, the Auditor says, and by reference to the report of the Commissioner of Indian Affairs for 1836, page 430, it appears that 6,300 were paid during that year. I have, therefore, continued the number given by the Auditor for 1832, viz., 6,400, for the three succeeding years, and this must be very nearly correct.

By reference to the report of the Commissioner of Indian Affairs for the year 1837, p. 643, it appears that the number continued during that year at 6,300.

The Commissioner's Report for 1838, p. 464, shows that during that year 4,546 were paid.

The Commissioner's Report for 1839, p. 499, shows that during that year 4,396 were paid.

The Commissioner's Report for 1840, p. 328, shows 4,000 paid during that year.

The Commissioner's Report for 1843, p. 284, and his report for 1844, p. 316, shows that during each of said years 2,348 were paid.

Miscellaneous Records, No. 6, p. 120, and No. 8, p. 145, of this office show that during 1845 the number continued to be 2,348.

The Auditor gives the number paid in 1846 as 2,443, but does not give that for 1847. As the number paid during the succeeding year was 2,489, an increase of only 46, I have continued for 1847 the number given for 1846, viz., 2,443.

This completes the list, and as I have followed the Auditor's numbers for the other years I believe that the statement I inclose is as close to the facts as it is possible to arrive, and that \$672.08 is the total of one per capita payment for all of the years in question.

I return inclosed the Auditor's list for your further reference, if desired.

Respectfully,

D. M. BROWNING, *Commissioner.*

Hon. R. R. HITT,
House of Representatives.

Exhibit of per capita payments made to Sac and Fox Indians of Mississippi, years 1832 to 1859, inclusive.

Year.	Num- ber In- dians.	Total amount paid.	Total per capita.	Year.	Num- ber In- dians.	Total amount paid.	Total per capita.
1832.....	6,400	\$7,800.00	\$1.22	1847.....	2,443	\$73,846.97	\$30.15
1833.....	6,400	27,800.00	4.34	1848.....	2,663	61,564.50	23.12
1834.....	6,400	28,000.00	4.38	1849.....	2,717	61,064.00	22.44
1835.....	6,400	27,000.00	4.22	1850.....	2,444	46,666.48	19.09
1836.....	6,300	25,680.00	4.08	1851.....	2,444	46,666.48	19.09
1837.....	6,300	57,000.00	9.04	1852.....	2,124	40,920.00	19.27
1838.....	4,546	37,000.00	8.14	1853.....	1,748	81,817.55	46.81
1839.....	4,396	42,000.00	9.55	1854.....	1,745	81,817.55	46.89
1840.....	4,000	42,000.00	10.50	1855.....	1,498	39,311.18	26.12
1841.....	2,269	40,572.17	17.88	1856.....	1,413	79,687.00	56.40
1842.....	2,348	41,000.00	17.50	1857.....	1,342	69,500.00	51.79
1843.....	2,348	48,290.05	20.56	1858.....	1,312	70,000.00	53.36
1844.....	2,348	66,162.65	28.17	1859.....	1,236	70,000.00	56.65
1845.....	2,348	78,152.46	33.28				
1846.....	2,443	68,612.19	28.04	Total per capita.....			672.08

JOSEPHINE FOOTE FAIRFAX.

FEBRUARY 13, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MILES, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 3112.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 3112) granting a pension to Josephine Foote Fairfax, have examined the same, and, adopting the accompanying Senate report (No. 248) as their own, respectfully recommend its passage, with the following amendment:

In line 8, strike out "one hundred" and insert "fifty."

[Senate Report No. 248, Fifty-fourth Congress, first session.]

The Committee on Pensions, to whom was referred the bill (S. 1784) granting an increase of pension to Josephine Foote Fairfax, have had the same under consideration, and submit the following report:

The applicant is the widow of the late Rear-Admiral Donald McNeil Fairfax, of the United States Navy, and the daughter of Rear-Admiral Andrew Hull Foote. Both these officers served with great distinction, and their careers reflect credit to a remarkable degree upon the American Navy.

Rear-Admiral Foote was born in Connecticut September 12, 1806. He was a son of United States Senator S. A. Foote, of that State. Entering the Navy as a midshipman in 1822, he saw active service almost immediately under the elder Porter in breaking up the piratical haunts in the West Indies. He became lieutenant in 1830.

During the years 1849, 1850, and 1851, while in command of the *Perry*, he did effective service in the suppression of the African slave trade. While commanding the *Plymouth* in China, in 1856, protecting American property during hostilities between Great Britain and China, he was fired upon by the forts on Canton River. An apology being refused, he attacked the forts, carrying them by storm. At the outbreak of the war of the rebellion he was selected to command the flotilla forming on the western waters. His conduct in connection with this and similar subsequent duty was so conspicuously fine that in June, 1862, he received the thanks of Congress and was made a rear-admiral. In June, 1863, he was selected to succeed Rear-Admiral Dupont in command of the fleet off Charleston, but while on his way to assume this command he died in New York, June 26, 1863.

Rear-Admiral Fairfax was born in Virginia March 10, 1821, and appointed midshipman in the Navy August 12, 1837. During the Mexican war he served on the California station and took part in the capture of Mazatean and Lower California. At the outbreak of the war he had been promoted through successive grades to lieutenant, and was serving as executive officer of the *San Jacinto*. The boarding of the British mail packet *Trent*, and the taking therefrom Mason and Slidell and their secretaries, Eustis and MacFarland, was directed in person by Lieutenant Fairfax, a most delicate and important event.

In May, 1862, he was ordered to command the *Cayuga*, reporting to Admiral Farragut, off New Orleans. In January, 1863, he was ordered North to command the monitor *Nantucket*, just built at South Boston. He was afterwards transferred to

the *Montauk*, and participated in all the principal operations before Charleston. He was commissioned as rear-admiral July 11, 1880, and in the following year was placed on the retired list, having been forty years in active service, twenty years of which were spent at sea. He died at Hagerstown, Md., January 10, 1894.

The Fifty-third Congress granted Mrs. Fairfax a pension of \$30 a month, and the present bill proposes to raise this sum to \$50 per month. There can not be a more worthy case for a pension of \$50, in accordance with so many precedents.

In an affidavit filed with the committee by Mrs. Fairfax, she states that "her husband died on the 10th day of January, 1894, leaving no estate or support for her. She has herself and three unmarried daughters to maintain, and is without means to do so, having but a small income of her own, entirely inadequate for her support."

These facts are also testified to by several citizens of Hagerstown, Md., where Mrs. Fairfax resides, and by the county clerk.

In consideration of the high character of her husband and her father, and of her limited resources, the committee recommend the passage of the bill.

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MRS. ELIZABETH RICHARDSON.

FEBRUARY 13, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CROWTHER, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 3932.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 3932) granting a pension to Mrs. Elizabeth Richardson, submit the following report:

Mrs. Elizabeth Richardson, an old lady of 77 years, is the dependent mother of Robert F. Richardson, who was a private in Company A, Missouri State Militia Cavalry, a company which afterwards became Company A of the Eighth Missouri State Militia Cavalry. He enlisted in December, 1861, to serve during the war in Missouri. He was admitted to the post hospital at Jefferson City, Mo., January 4, 1862, with measles, and returned to duty February 23, 1862. February 28 he was reported on the company roll as absent on furlough, and on the muster-out roll of the company, January 25, 1865, the remark was made, "was killed near Osceola, Mo., February 8, 1862, by guerrillas."

There is an apparent discrepancy in the dates, but the testimony shows conclusively that the soldier was killed by guerrillas near Osceola while absent from the command on furlough.

The case appeals strongly to the sense of right in almost every human breast. This soldier gave his life for his country, not in battle, it is true, but in a desperate encounter with those roving enemies of all government who infested that section of Missouri at the time. In consequence of that loss, the mother is now on the verge of the grave and in want.

Your committee, in view of the facts, beg to report favorably and recommend that the bill do pass, with the following amendment:

Strike out "twenty" in the last line and substitute "twelve."

CHARLOTTE WEIVER.

FEBRUARY 13, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CROWTHER, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 2689.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2689) to pension Charlotte Weiver, having considered the same, respectfully submit the following report:

The evidence before the committee demonstrates that the claimant, Charlotte Weiver is the widow of Antonio Weiver, late a sergeant of Company E, Second Regiment United States Artillery, who served in the Army for a period of fifteen years; that his widow is now drawing a pension of \$8 per month; that her physician's affidavit on file with the committee shows that the claimant is now over 70 years of age; that by reason of her extreme age her physical condition has degenerated into senile debility, she being wholly unable to attend to her personal necessities; that she is wholly dependent and has neither kith nor kin upon whom she can rely for assistance, and that she is required to have assistance most of the time.

In view of these unfortunate surroundings and conditions, your committee are of the opinion that the bill should pass, with the following amendment:

Strike out the word "twenty" and insert the word "twelve," and insert after the word "month" the words "in lieu of all pension granted."

MRS. H. J. KIERNAN.

FEBRUARY 13, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. McCLELLAN, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 468.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 468) granting an increase of pension to \$50 per month to Mrs. H. J. Kiernan, widow of the late Gen. James L. Kiernan, in lieu of her present pension, beg leave to submit the following:

Gen. James L. Kiernan was born in New York City in 1837, and graduated from the medical department of the University of New York in 1857.

He entered the service as assistant surgeon of the Sixty-ninth New York Infantry. A few months subsequently he was transferred to the Fifth Kentucky. He was a volunteer in the First Missouri Cavalry, and was in the lead in pursuit of Price into Arkansas. For brave conduct during the Pea Ridge campaign he was promoted to major of Sixth Missouri Cavalry.

In one of the skirmishes in which he was engaged he was wounded in the shoulder. Suffering from wound and injuries he was borne to a hospital in the town, which was entered by a detachment of the enemy's cavalry. He laid in bed, disabled and in pain, but declined to be paroled. While in bed he overheard a conversation between a Confederate officer and a friend, the substance of which was that a large force of cavalry and artillery was about to concentrate in the town and make a sudden attack upon a large supply train which was about to leave Grand Gulf the following night for Grant's army. Major Kiernan dressed as quickly as possible, and by the help of a negro made his way through the pickets and reached Bayou Pierre, where, launching a log, he paddled across to Grand Gulf, a distance of 8 miles. The timely information saved the train.

On August 1, 1863, he was appointed brigadier-general by President Lincoln, upon the written request of Generals Grant, Logan, Schofield, McPherson, and fourteen other generals, and also colonels and four governors of States. He served with distinction until the close of the war. He was wounded six times, once through the lungs, and from that he suffered continually, and his death on November 27, 1869, was directly attributable to this wound.

The following is a copy of his recommendation for promotion as brigadier-general:

MILLIKENS BEND, LA., April 13, 1863.

The undersigned officers of the United States Army would most respectfully recommend Maj. James L. Kiernan to His Excellency the President of the United

States for promotion. After having been surgeon in the Army for two years, performed the most varied and active service, and did his duty with activity and zeal, he is about to retire from the medical department in order to enter the line. We respectfully trust that the President, taking into consideration his services and our recommendation, will consider his case favorably.

U. S. GRANT,
Major-General.
FRANK P. BLAIR,
Major-General of Volunteers.
JOHN A. MCCLEARNAND,
Major-General, Commanding.
ALVIN P. HOVEY,
Brigadier-General, Commanding Twelfth Division.
S. A. HURLBUT,
Major-General.
J. M. SCHOFIELD,
Major-General.
Maj. JOHN F. HARTRANFT,
JOHN C. SULLIVAN,
Brigadier-General.
P. JOS. OSTERHAUS,
Brigadier-General, United States Volunteers.
JOHN A. LOGAN,
Major-General.
JAS. R. MCPHERSON,
Major-General.
A. J. SMITH,
Brigadier-General.
S. G. BURBRIDGE,
Brigadier-General.
W. P. BENTON,
Brigadier-General of Volunteers.
T. F. QUIMBY,
Brigadier-General.
E. B. BROWN,
Brigadier-General.
DAVID SHUNK,
Colonel Eighth Indiana Infantry.
H. D. WASHBURN,
Colonel Eighteenth Indiana Volunteers.
RICHD. OWEN,
Colonel Sixtieth Indiana Volunteers.
WM. S. HILLYER,
Colonel and Provost-Marshal-General, Department of the Tennessee
WM. T. HALL,
Colonel Eleventh Iowa, Commanding Third Brigade, Sixth Division.
CLARK WRIGHT,
Colonel Sixth Cavalry Missouri Volunteers.
W. J. LANDRUM,
Colonel Nineteenth Kentucky, Commanding Second Brigade,
Tenth Division, Third Army Corps.
GRANTHAM I. TAGGART,
Lieutenant-Colonel and C. P.
DAVIS W. CHEEK,
Captain Thirteenth Regiment Infantry.

In view of the meritorious services of this gallant officer, we earnestly recommend the passage of this bill.



MRS. CATHARINE GAFFNEY.

FEBRUARY 13, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. KERR, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 4475.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4475) granting a pension to Mrs. Catharine Gaffney, would respectfully report:

Your committee have examined the facts in connection with this claim, and report in favor of the passage of the bill. The facts disclosed are somewhat remarkable. The claimant, while yet a minor, about the year 1846 married one Thomas Madigan. He was intemperate in his habits, and occasionally left home, always returning, however, after a brief interval. They were married near Buffalo, N. Y. In the year 1852 he left for Cleveland. Soon afterwards she heard from relatives at Cleveland that he had been accidentally killed while loading a vessel. Madigan has never returned to her since that time, and neither she nor any of her kindred have ever heard from him. A diligent search of the city directories of Cleveland and Buffalo fails to disclose his presence in either of those cities after the year when the report of his death was received. Later, about the year 1858, she married one Cornelius Sullivan, who enlisted in the Army at the beginning of the war and was killed in battle in the year 1862. As the widow of Sullivan she applied for and obtained a pension, and also a pension as guardian of each of two minor children who have since died.

On November 4, 1864, she married Michael Gaffney, at Buffalo, N. Y., a soldier in the war, who lived with her until October, 1885, when he died at Cleveland. The evidence discloses that his death was caused by a hemorrhage, which, according to the evidence, was contracted in the service. Her marriage to Gaffney, his military service, his death from a cause resulting from his military service, all appear to be clearly proven by the evidence, but her claim has been rejected at the Pension Office on the ground that there is no adequate proof that her first husband, Thomas Madigan, who disappeared in 1852, is dead.

Other circumstances are brought to our attention, namely, that she is now nearly 70 years of age, lives in two rooms scantily furnished, with one child, who is a cripple, supports herself as a washerwoman, and notwithstanding the difficulties of her situation bears a most excellent reputation among her neighbors for industry and moral character.

Your committee recommend that the bill do pass.

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MRS. EMILY M. VAN DERVEER.

FEBRUARY 13, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. LAYTON, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 2143.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2143) granting a pension to Mrs. Emily M. Van Derveer, widow of the late Brig. Gen. Ferdinand Van Derveer, having carefully considered the same, submit the following report:

It is shown by the report of the Record and Pension Office that Ferdinand Van Derveer (the deceased husband of the beneficiary of this bill) was enrolled May 21, 1846, and mustered into service June 26, 1846, as first sergeant, Company I, First Ohio Volunteers, Mexican war, to serve one year. He is reported on the muster rolls of the company, present; elected first lieutenant September 2, 1846, and captain October 5, 1846. He was mustered out with the company as captain June 12, 1847.

Ferdinand Van Derveer was mustered into service September 24, 1861, as colonel of the Thirty-fifth Ohio Infantry Volunteers, to serve three years. He is reported as present with the regiment on January 28, 1863, from that date to August 31, 1863, in command of the Third Brigade, Third Division, Fourteenth Army Corps; and thereafter on June 28, 1864, in command of the Second Brigade, Third Division, Fourteenth Army Corps. After June 28, 1864, he is reported absent in Ohio on sick leave. He was mustered out of service, as colonel of the above-named regiment, August 26, 1864.

Ferdinand Van Derveer was appointed brigadier-general of volunteers October 4, 1864, with rank from the same date and accepted the appointment November 29, 1864. He was assigned to the Department of the Cumberland January 13, 1865; was ordered on duty in the Fourth Army Corps, January 21, 1865; was assigned to the Second Brigade, Second Division, Fourth Army Corps, February 8, 1865; and continued on duty in command of said brigade until June 14, 1865, when he was ordered to Hamilton, Ohio, to await action on his resignation. His resignation was accepted and he honorably discharged the service to date June 15, 1865, in special orders from this Department dated June 16, 1865.

The report from the Bureau of Pensions shows that General Van Derveer died November 5, 1892; that he drew \$8 per month for services in the Mexican war (service pension), but never received or applied for any pension during his lifetime for service in the war of the rebellion; that he married to the beneficiary December 14, 1848; that she,

as his widow, is now receiving a pension of but \$8 per month under the act of January 29, 1887, dating from November 6, 1892.

The sworn testimony of a reputable physician, who was intimately acquainted with General Van Derveer during the last forty-five years of his life, shows "that his disease and death was the direct result of his army service."

Other testimony presented to your committee shows that Mrs. Van Derveer is now about 67 years of age; that she has no income whatever except the pension she is now receiving; that she has no property whatever except an old homestead in the city of Hamilton, Ohio, which is encumbered and will soon be sold at forfeited land sale for delinquent taxes unless this relief is afforded her by Congress.

The military services of General Van Derveer, in both the Mexican war and the war of the rebellion were exceptionally gallant, meritorious, and valuable. In Gen. George H. Thomas's report of the battle of Chickamauga (the battle in which General Van Derveer won his star) he very highly commends the courage, valor, and the distinguished services of General Van Derveer during that long and bloody battle.

History of Ohio in the War furnishes many other instances of his courage and valor during the war.

For the foregoing reasons, and in accordance with many precedents, your committee recommend the passage of this bill with the following amendment:

Strike out "one hundred" in the seventh line thereof and insert "seventy-five," so as to allow her \$75 per month.



ANNIE THOMPSON.

FEBRUARY 13, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PICKLER, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 4298.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4298) granting a pension to Annie Thompson, have carefully considered the same, and respectfully submit the following report:

Jay Thompson enlisted in Company M, Third Wisconsin Cavalry, as first sergeant November 26, 1861; mustered as first lieutenant October 2, 1862; mustered as captain July 10, 1863; discharged August 29, 1864, because of incipient consumption and hemorrhage of the lungs since entering the service by exposure and fatigues of the field while in the line of duty.

Soldier filed application for pension November 15, 1885, which was allowed October 28, 1889, at \$30, for lung disease contracted in the service. He died of the same disease July 11, 1888.

His widow, the beneficiary named in this bill, filed application September 4, 1888, and on July 15, 1889, the same was allowed at \$12. June 2, 1890, she applied for reissue, alleging that the disease from which the soldier died was contracted while he was captain. The soldier himself, in his own declaration, alleges that it was contracted after he became captain, and the question was never raised until after her application for reissue was filed.

Brigadier-General Blair, who commanded the regiment at that time, says:

I never noticed anything wrong with his health until after he became captain.
* * * He was a faithful, efficient, and competent officer. * * * He was not only a model soldier, but a straightforward and conscientious man.

While the soldier was a small man physically, his soundness at enlistment has never been questioned, and the general trend of all the testimony is to the effect that the disease was contracted as stated.

Probably the true inwardness of the situation is best manifested by a glance at the reports of the special examiners. On February 3, 1893, after giving his views as to the standing of the witnesses, one of them says:

The case is one of merit in my opinion, but, in order to settle the point in issue, would recommend further examination, as follows: * * * Testimony of Surg. B. O. Reynolds and Gen. Charles W. Blair: It seems to me that the evidence of these would settle the case.

On August 24, 1893, the special examiner who took the testimony of General Blair comments thereon thus:

General Blair is a gentleman of unquestioned standing and reputation. His testimony is to the effect that the soldier was apparently sound when he first became

acquainted with him in April, 1863, and remained so for some months, when deponent first became aware that soldier had lung trouble. The question at issue in this case seems to be a very difficult one to settle by the testimony of officers and comrades.

On December 26, 1893, the special examiner who took the testimony of Dr. Reynolds, above mentioned, opens by saying that "he enjoys a good reputation, but, posing as the soldiers' friend, is known to be rather liberal, if not accommodating, in furnishing affidavits." And, having thus insidiously prepared the mind of the reader, disposes of his evidence by saying:

There is no doubt in my mind that affiant was prompted by claimant, who, by the way, is described as a "business woman."

The claim for reissue was rejected June 11, 1895.

A liberal view of the evidence would have resulted in the allowance of this claim by the Bureau of Pensions, and, if there is any doubt at all in the matter, your committee believe it should be resolved in favor of the claimant.

Your committee therefore recommend that the bill be amended by striking out the word "thirty," in line 7, and inserting in lieu thereof the word "twenty," and that as amended the same do pass.

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CASSIE A. DAVIS.

FEBRUARY 13, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SULLOWAY, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 5814.]

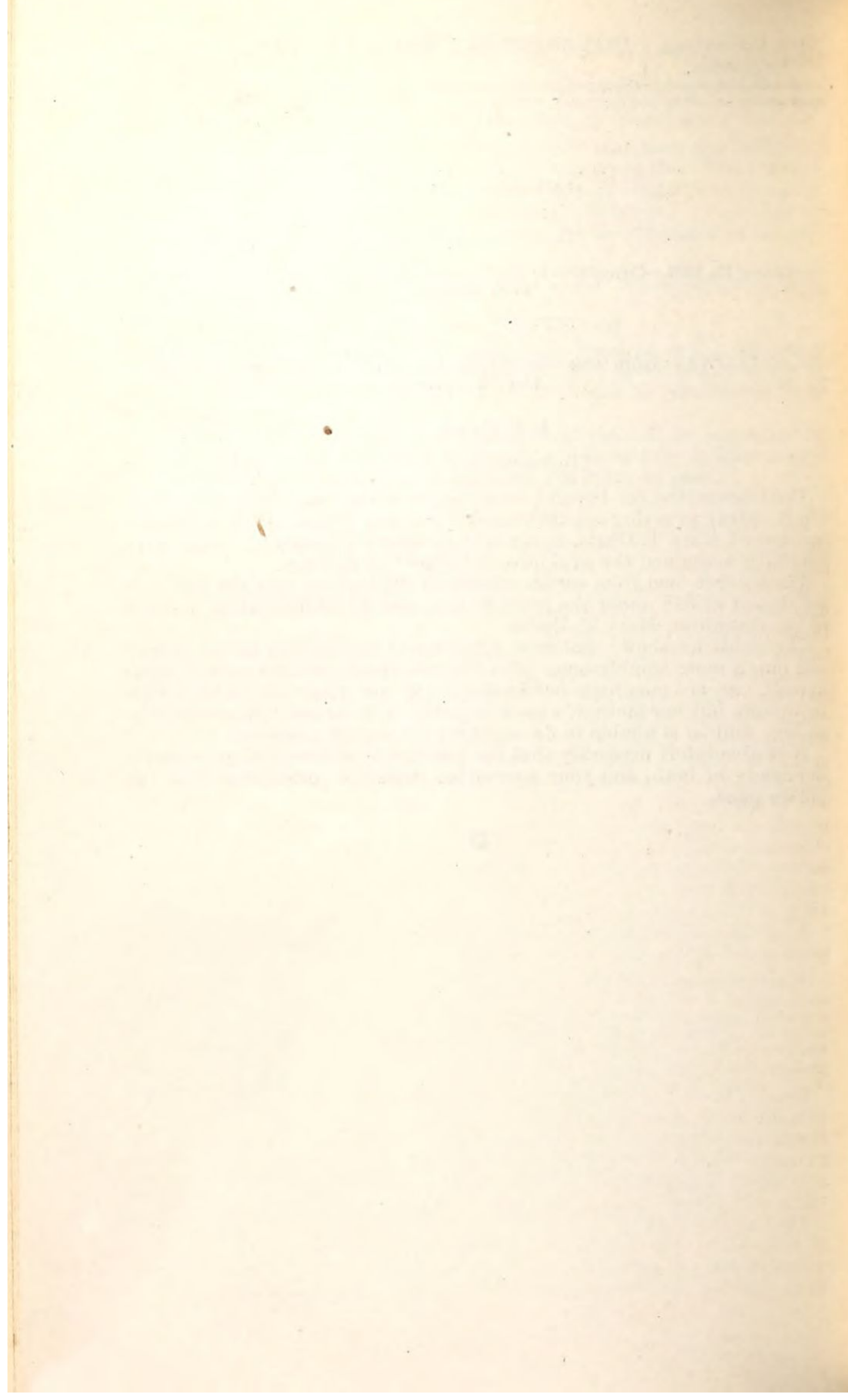
The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5814) granting an increase of pension to Cassie A. Davis on account of Mary T. Davis, dependent daughter of James F. Davis, have carefully examined the evidence and report as follows:

The soldier died from causes arising in the service, and the widow is pensioned at \$12 under the general law, and \$2 additional on account of the daughter, Mary T. Davis.

The evidence shows that said daughter is as helpless as an infant, and much more troublesome. She can not speak, can not feed or dress herself, can not masticate her food, and can not make known her wants to anyone but her mother, who is required to be in constant attendance on her, and so is unable to do anything for her own support.

It is absolutely necessary that the pension be sufficient to provide for the needs of both, and your committee therefore recommend that the bill do pass.





CYNTHIA A. LAPHAM.

FEBRUARY 13, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SULLOWAY, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 3001.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 3001) granting a pension to Cynthia A. Lapham, having carefully considered the facts in evidence, report as follows:

William B. Lapham, who was the husband of the beneficiary of this bill, served as first lieutenant of the Seventh Maine Battery from December 30, 1863, to May 26, 1865, and as captain and assistant quartermaster from May 19, 1865, to October 30, 1865.

While with the Seventh Maine Battery he contracted malarial fever and chronic diarrhea, for which he was pensioned up to the date of his death, his rate from November 10, 1893, being \$17 per month, which was total of rank as first lieutenant. He died at the Soldiers' Home at Togus, Me., February 21, 1894, and the certificate of the surgeon of the Home shows that he was admitted to the hospital on date of admission to the Home on account of diabetes melitus, complicated with peripheral neuritis, with a history of having suffered from malaria and chronic diarrhea and their sequelæ since the war, which may have been factors in the causation of the disease for which he was admitted. His condition was not the result of vicious habits. He died February 21, 1894, of diabetes melitus.

A certificate filed in the Pension Office July 6, 1895, by the same surgeon, concludes as follows:

From this review of the case I feel justified in stating that while my certificate of death, dated March 6, 1894, is correct so far as it goes, it probably does not fully represent all of the causes operating to produce death, and that said certificate would be more complete if it included chronic malarial poisoning and chronic diarrhea with diabetes mellitus as a final complication, as the causes operating to produce death.

Dr. W. Scott Hill, of Augusta, Me., testifies that he treated Dr. Lapham for about eight weeks just prior to his entrance to the Soldiers' Home for chronic malaria and valvular disease of heart. That he examined the doctor's urine for sugar and found only a trace, but he did not require or receive any treatment for diabetes. He did, however, suffer from dyspnœa and œdema of the lower extremities.

Dr. Lapham was for some time a member of the United States board of examining surgeons at Augusta, Me. In view of all these facts the committee are of opinion that soldier's death was due to causes arising in the service.

If the disease of heart or the diabetes melitus, one of which is believed to have been the immediate cause of death, was not the direct outgrowth of the causes for which the soldier was pensioned, it certainly came in as a complication, and in connection with those diseases and in consequence of his reduced condition, and the exhaustion of vital forces consequent thereon, produced death.

Your committee therefore recommend that the bill be amended by striking out all after the word "month," in line 10, and that as thus amended the bill do pass.

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JOHN S. EVANS.

FEBRUARY 14, 1896.--Committed to the Committee of the Whole House and ordered to be printed.

Mr. WASHINGTON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 1601.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 1601) to amend the military record of John S. Evans, have had the same under consideration, and report the same back with a recommendation that it do pass.

John S. Evans was a private in Company E, Twenty-seventh Ohio Volunteers, mustered in October, 1861, to serve three years. In September, 1863, he was sentenced for mutinous conduct by court-martial to Alton, Ill., with forfeiture of all pay and allowances. He was discharged from the service October 1, 1864.

The circumstances of his arrest are related in the following extract from a letter by Col. M. Churchill, formerly of the Twenty-seventh Ohio Volunteers, and dated Zanesville, Ohio, October 29, 1895, and addressed to John S. Evans at his home in George, Iowa:

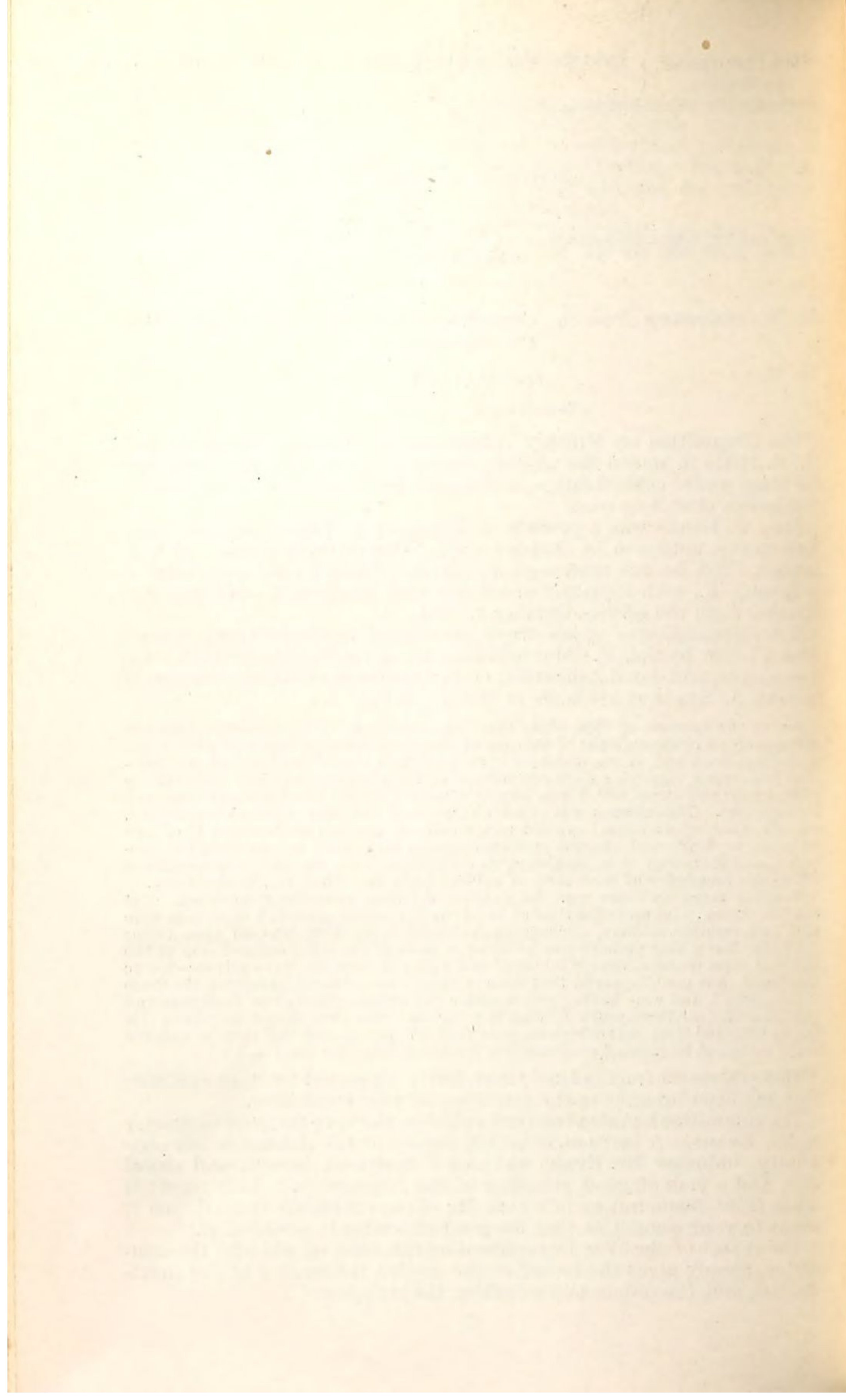
During the summer of 1863, while the Twenty-seventh Ohio Volunteer Infantry was encamped in the suburbs of the city of Memphis, Tenn., I then being the major of the regiment and in command of it at that time, the enlisted men of said regiment undertook, through a show of violence or insurrection, to disturb or break up a dance near the camp which was largely attended by the commissioned officers of the regiment. This attempt was quickly suppressed, and John S. Evans, Adon Cecil, and one other whose name I can not now recall, all privates of Company E of said regiment, were arrested, charges preferred against them, tried by court-martial, convicted, and sentenced to be dishonorably discharged from the service and confined during the remainder of their term of enlistment in the Alton, Ill., Penitentiary.

Whether these sentences were fully executed I have no means of knowing. But this I do know, that up to the time of the difficulty above indicated, these men were good and reliable soldiers, discharging faithfully every duty imposed upon them; and I also knew that perhaps one hundred or more of the other enlisted men of the regiment were quite as deeply involved and guilty as were the three privates before mentioned, but it so happened that none of them were arrested, excepting the three before named, and who, having rested under the odium attached to their trial and conviction for all these years, I think it is but just that they should now have this stigma removed from their otherwise good soldierly record, and that they be restored to the rolls and be granted an honorable discharge from the service.

This statement from Colonel Churchill is supported by other evidence that has been brought to the attention of your committee.

The committee has also received evidence showing the good character of Mr. Evans. A petition, generally signed by the citizens of his community, indorses Mr. Evans as "An industrious, honest, and moral man, and a man of good standing in the community." Like report is made from communities in which Mr. Evans formerly resided, and it seems to your committee that his good character is established.

The report of the War Department on this case, on file with the committee, simply gives the record of the soldier, the finding of the court-martial, and the orders promulgating the sentence.



GEORGE T. STEVENS.

FEBRUARY 14, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. McCLELLAN, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 5610.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 5610) for the relief of George T. Stevens, assistant surgeon Seventy-seventh New York Volunteers, have had the same under consideration, and submit the following report:

It appears, from the records of the War Department and from a letter from the colonel of his regiment, both of which are appended, that, owing to a misapprehension of the circumstances of his case, Dr. Stevens was dismissed under an order recommended by Maj. Gen. George B. McClellan, commanding Army of the Potomac, approved by the Secretary of War, November 11, 1862.

It further appears that the authorities of the War Department have attempted to correct Dr. Stevens's record, but have been unable to do so owing to technicalities.

Your committee therefore recommend the passage of the bill.

Case of George T. Stevens, late assistant surgeon and surgeon, Seventy-seventh New York Volunteers.

George T. Stevens was mustered into service as assistant surgeon Seventy-seventh New York Volunteers November 23, 1861, and is reported present to April 30, 1862. Subsequent rolls report him as follows: May and June, "absent, sick in Washington since May 10;" July and August, "absent," without remark, and September and October, 1862, "present."

He was granted leave of absence for thirty days on surgeon's certificate of disability, in Special Orders, No. 134, June 14, 1862, War Department, Adjutant-General's Office. This leave was granted upon certificate of Dr. Joseph K. Barnes, surgeon, U. S. A., dated June 9, 1862, at Washington, D. C., showing that Assistant-Surgeon Stevens was slowly convalescing from an attack of typhoid fever contracted in the field, in consequence of which, in Surgeon Barnes's belief, he would not be able to resume his duties in a less period than sixty days.

Assistant Surgeon Stevens was also granted leave of absence for twenty days on surgeon's certificate of disability in Special Orders No. 167, July 14, 1862, War Department, Adjutant-General's Office. This leave was also granted upon a certificate of Dr. Jos. K. Barnes, surgeon, U. S. A., dated Washington, D. C., July 7, 1862, to the effect that Dr. Stevens's convalescence had been retarded by his inability to travel to a more northern latitude; that having considered him entirely unfit for duty he had advised a change of climate as essential to his restoration to health, and that, in his belief, he would not be able to resume his duties in a less period than twenty days from July 14, 1862—date of expiration of the leave previously granted him.

On August 4, 1862, Assistant Surgeon Stevens addressed a letter to the Adjutant-General of the Army, from Crown Point, N. Y., the text of which is as follows:

"On leaving Washington three weeks since, I left in the hands of my attending physician, Dr. N. S. Lincoln, of Washington, a certificate of disability for twenty days, given by Surgeon Barnes, U. S. A., in the office of the Surgeon-General.

"Dr. Lincoln promised to call at the War Department and apply for an extension of my leave of absence on this certificate. As he has not written to me, I can not tell whether he has done so or not, and the time of the certificate expires to-day. I have been too ill to attend to the matter earlier myself. I am slowly convalescing from typhoid fever, acquired in the Army on the Peninsula. I am now only able to walk with difficulty about my father's house, having left it only once, to ride a very short distance, since my arrival here. Most of the time I am confined to my bed. I do not consider myself at all fit to return to duty at present, and I therefore respectfully request that my leave of absence be extended twenty days from this date."

This letter was received in the Adjutant-General's Office August 8, 1862, but no action appears to have been taken thereon.

The regimental return for August, 1862, reports him "Sick at Washington," and for September, 1862, "Sick at Essex County."

The records do not show the exact date he returned to the regiment, but as the field and staff roll for September and October, 1862, reports him present, he evidently returned sometime in October.

On October 4, 1862, Maj. Gen. William F. Smith, commanding Second Division, Sixth Corps, addressed a communication to the chief of staff, Sixth Corps, as follows:

"I have the honor to inclose herewith reports from my brigades of the officers 'absent without leave' in this command, and respectfully request that they be either ordered to rejoin this division at once or be dismissed the service, in order to fill their places by officers more attentive to their duties."

In the reports referred to the name of Assistant Surgeon Stevens appears with remark as follows: "Absent since May 5, 1862."

On October 10, 1862, General Smith's communication was forwarded to the Adjutant-General of the Army by Maj. Gen. George B. McClellan, commanding Army of the Potomac, with the recommendation "that the within-named officers be dismissed the service."

The recommendation was approved by the Secretary of War, and in Special Orders, No. 339, paragraph 23, November 11, 1862, War Department, Adjutant-General's Office, Assistant Surgeon Stevens was, by direction of the President, dismissed the service of the United States for absence without leave, to date October 4, 1862.

On December 15, 1862, Dr. Stevens addressed a communication to the Secretary of War, from Washington, D. C., in which he requested a revocation of the order dismissing him, and submitted a statement of his case in which he alleged that on the 14th of August, 1862, he started for and immediately joined his regiment, still so weak as to be unable to walk without assistance; that he was at the second battle of Bull Run, and that he returned to Washington soon after very ill; that on September 9, 1862, he obtained leave of absence for one week from General Halleck, and that, being very ill, he was sent home, where he remained until the early part of October, when he again started for his regiment, but that before he reached it he met the colonel and lieutenant-colonel and a former surgeon of the regiment, all of whom advised him by all means to return home, as he was in no condition to endure the exposures incident to the field; that he accordingly returned home, where he remained until October 20, 1862, when he again started for the regiment and joined it immediately at Hagerstown, since which time he had been constantly on duty until four days since, having been on duty more than a month before he received any notice of his dismissal.

Dr. Stevens's communication is indorsed by the colonel of the regiment (James B. McKean) as follows:

"Knowing Dr. Stevens to be a surgeon and physician of fine attainments and a gentleman of high character, and knowing also that his statement above is in every respect true, I earnestly recommend his restoration to the service."

Thereupon Special Orders No. 37, paragraph 7, January 23, 1863, War Department, Adjutant-General's Office, were issued in his case as follows:

"Asst. Surg. George T. Stevens, Seventy-seventh New York Volunteers, dismissed by Special Orders No. 399, series of 1862, is hereby restored to his command if the vacancy has not been filled."

The records do not show that he returned to his regiment as assistant surgeon.

He was, however, mustered into service as surgeon of the same regiment February 16, 1863, at Albany, N. Y., with remark: "Appointed from civil life February 16, 1863, vice A. Campbell, resigned; present with the regiment and performing the duties from February 16, 1863." He served as such until December 13, 1864, when he was mustered out of service with the field and staff of the regiment, at Saratoga, N. Y., with remarks on the muster-out roll as follows: "Was assistant surgeon

from enrollment to October 4, 1862, then dismissed by order of Secretary of War, then reenlisted February 16, and then made surgeon."

By authority of the Secretary of War.

F. C. AINSWORTH,

Colonel, United States Army, Chief Record and Pension Office.

RECORD AND PENSION OFFICE,

War Department, December 2, 1895.

SARATOGA SPRINGS, N. Y., *February 1, 1896.*

MY DEAR SIR: George T. Stevens, of 33 West Thirty-third street, New York City, joined the Seventy-seventh Regiment New York State Volunteers in 1861, at Saratoga Springs, and was enrolled and mustered into the service of the United States as assistant surgeon of the regiment, and served in that capacity with great skill until he was stricken down by disease while the regiment was on the Peninsula. The cause of Dr. Stevens's illness was overwork while the regiment was lying at Yorktown, Va.

There was no other medical officer connected with the regiment, and he worked from early morning till late at night while our ranks were being decimated by the fevers of the swamps.

It was hard for him to leave the regiment when he did, for he was devoted to the "boys" and they to him, and I positively know that, though his leaves of absence were extended from time to time, there never was a moment when he would not have gladly joined the regiment and assumed his duties had he been able to do so. He was brave, without a fault, and always kind and attentive, and in the camp, on the march, and in the battle he was always to be relied upon.

Two surgeons, his superior officers, had been stricken down and obliged to leave the service, and he had assumed their duties and added them to his own without a murmur or complaint, and with such skill and ability as was not surpassed by any surgeon in the Army.

His dismissal from the service was without any excuse or reason. It was done while I was absent from the regiment on recruiting duty, and was clearly a mistake.

I was adjutant of the Seventy-seventh Regiment New York State Volunteers from its muster in in 1861 until June, 1862; then major, then lieutenant-colonel, and from October, 1862, in command until its muster out in December, 1864.

I have in my possession one of the three muster rolls of the regiment signed by J. Horten Butler, first lieutenant, Seventh United States Artillery, mustering-out officer, dated December 13, 1864, and on it, after the name of George T. Stevens, is written, among other things, as follows: "Was assistant surgeon from enrollment to October 4, 1862; then dismissed by order of Secretary of War; then reinstated February 16; then made surgeon."

I am informed that the records of the War Department show that the word "reenlisted" is in the above quotation, instead of the word "reinstated." I have always supposed that Special Orders, No. 37, January 23, 1863, War Department, wherein Dr. Stevens was "restored" to his command, wiped out his former erroneous dismissal, and placed him again in his regiment, entirely purged and pardoned from the stain of the former order; and I am greatly surprised to learn that after so many years the still hateful record shows, to the detriment of so good a man and so able an officer.

I regret exceedingly that I am unable to put in language all that I want to say in behalf of Dr. Stevens in this matter. He was very near to me in the service, and has always since been so, and anything that can be done to right this wrong I shall be very thankful for.

If you deem it important that I should appear personally in Washington before the Secretary of War or the President, or elsewhere in this matter to aid Dr. Stevens, please let me know and I will go at any time you desire.

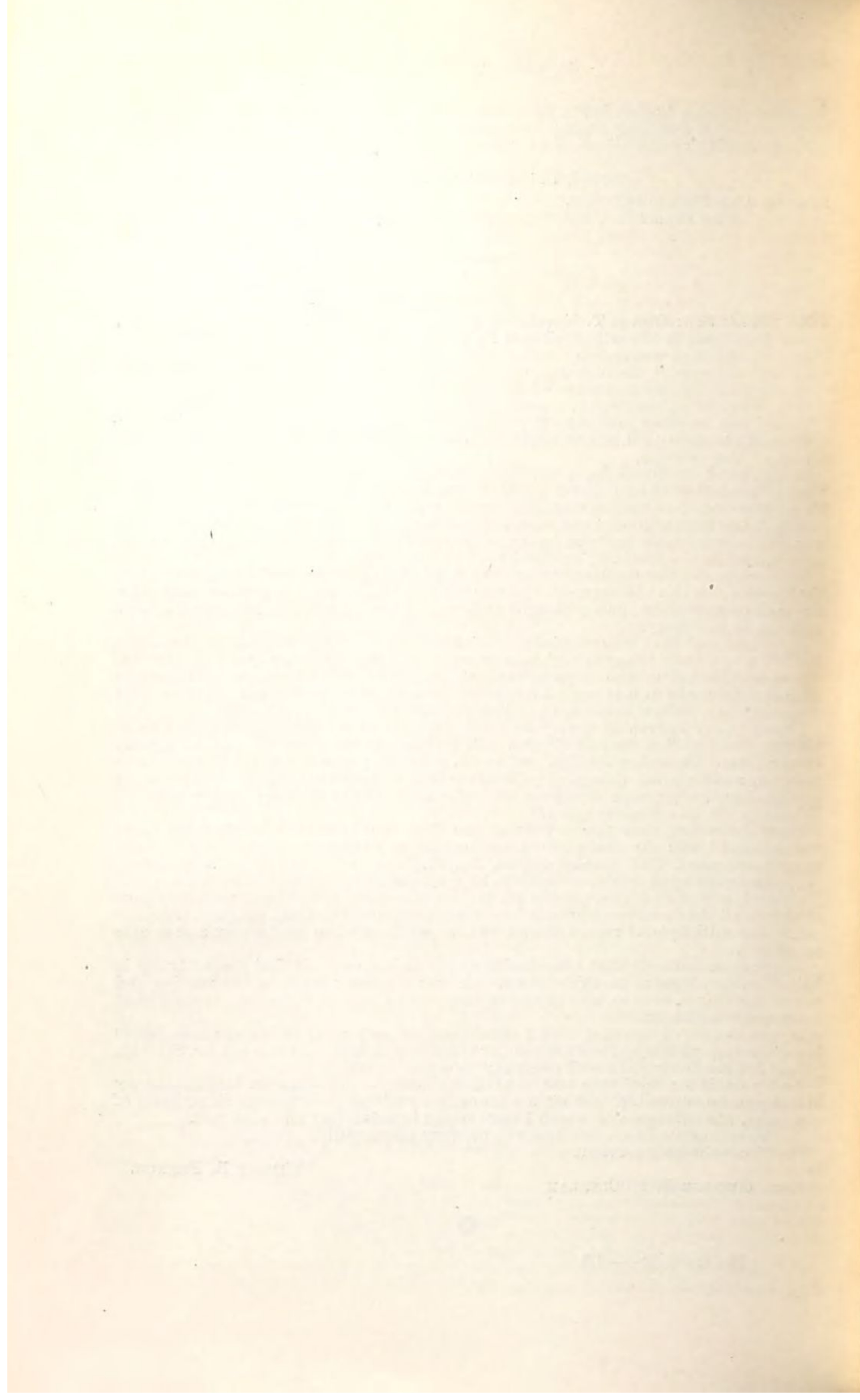
And permit me further to add, that if it should be necessary or, better, that my statement be verified, please let me know and I will at once prepare an affidavit of the facts, the substance of which I have stated in this letter, and send you.

In the meantime I have the honor to be, very respectfully,

Your obedient servant,

WINSOR B. FRENCH.

Hon. GEORGE B. McCLELLAN.



PETER FLEMING.

FEBRUARY 14, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. TRACEY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 1609.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 1609) to remove the charge of desertion from the military record of Peter Fleming, have considered the same, and beg leave to report as follows:

Private Peter Fleming enlisted in Battery E, Third United States Artillery, on the 19th day of September, 1861, and served until the 9th day of February, 1864, when he was discharged by reason of reenlistment in the same battery. There is no stain on his record as a soldier for more than two years and four months. Upon reenlistment he was given a veteran furlough; but as the battle of Olustee, Florida, was then impending, he postponed the use of his furlough until after the battle. Prior to that battle he had been in the battles of Port Royal, Beaufort Island, James Island, Pocataligo, S. C., and Morris Island.

At the battle of Olustee he assisted in serving one of the guns, and, according to his own statement, the heavy firing affected his hearing, rendering him almost totally deaf to this day. Blood came from his nostrils and ears, and afterwards sores formed, and his mind was affected, leaving him for a long time in a dazed condition. He is unable to prove that he could not have returned to his regiment at any time after receiving his furlough to the expiration of his term of service, for the reason that he had no family at the time and no intimate friends whose whereabouts he is able to find; but that he was never able to return, and was in consequence marked on the rolls as a deserter.

In the month of February, 1880, when near Helena, Mont., he was caught in a blizzard and so severely frozen that it became necessary to amputate both legs below the knee and all of his fingers and the thumbs of both hands.

In view of the faithful services of Fleming as a soldier for nearly three years, his active participation in a number of hard-fought battles, in the last one of which he may have received permanent injuries, and his mutilated and disabled condition, your committee recommend that the bill do pass, with the following amendment:

Strike out all after the enacting clause and insert the following:

That Peter Fleming, late a private in Battery E, Third United States Artillery, by reason of faithful services as a soldier for a period of nearly three years, and his present mutilated and disabled condition, be, and he hereby is, declared to be entitled to admission to the Soldiers' Home for Disabled Volunteer Soldiers and to any branch thereof, notwithstanding the charge of desertion against him, and he shall be so admitted at his request.

Amend the title so as to read "A bill for the relief of Peter Fleming, Battery E, Third United States Artillery."

MAHON RIVER LIGHT STATION.

FEBRUARY 14, 1896.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. CORLISS, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. R. 1414.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 1414) to establish the Mahon River light station on a new site, report the same back and recommend that the bill do pass.

A letter from the Secretary of the Treasury, shows the necessity for the proposed legislation.

TREASURY DEPARTMENT,
Washington, D. C., January 10, 1896.

SIR: The letter from your committee of January 6, 1896, inclosing for suggestion House bill No. 1414, "To establish the Mahon River light station, Delaware River, on a new site," has been received.

This matter was referred to the Light-House Board, which reports that it knows of no objection to the passage of this bill.

Respectfully, yours,

S. WIKE, *Acting Secretary.*

The CHAIRMAN OF THE COMMITTEE ON
INTERSTATE AND FOREIGN COMMERCE,
House of Representatives, Washington, D. C.

FOG SIGNAL, ENTRANCE TO MENOMINEE HARBOR,
WISCONSIN.

FEBRUARY 14, 1896.—Committed to the Committee of the Whole House on the
state of the Union and ordered to be printed.

Mr. CORLISS, from the Committee on Interstate and Foreign Commerce,
submitted the following

REPORT:

[To accompany H. R. 5363.]

The Committee on Interstate and Foreign Commerce, to whom was
referred the bill (H. R. 5363) making an appropriation for a fog signal
on the north pier of the entrance to Menominee Harbor, Wisconsin,
respectfully report the same back and recommend that the bill do pass.

Your committee believe, from the correspondence had with the Treas-
ury Department and which is made a part of this report, that the
interest of commerce and navigation demands the establishment of a
fog signal at the point named.

TREASURY DEPARTMENT,
Washington, D. C., February 6, 1896.

SIR: The letter from your committee of February 5, 1896, inclosing H. R. bill,
No. 5363, for a fog signal on the north pier of the entrance to Menominee Harbor,
Wisconsin, has been received.

In reply I have to say that the matter was referred to the Light-House Board,
which reports that the following estimate was submitted by it:

Menominee Light and Fog Signal Station, Michigan:

Establishing a fog signal at Menominee Light Station, Green Bay, Lake
Michigan, Michigan..... \$5,000

NOTE.—The increase in the number and size of vessels frequenting the harbor
makes the establishment of a fog signal here necessary to the safety of navigation.
(See p. 183, Book of Estimates, 1896-97.)

The proposed appropriation has, therefore, the approval of the Board.

Respectfully, yours,

S. WIKE, *Acting Secretary*

The CHAIRMAN OF THE COMMITTEE ON
INTERSTATE AND FOREIGN COMMERCE,
House of Representatives.

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SUNDRY LIGHTS, ETC., IN LAKES HURON AND SUPERIOR.

FEBRUARY 14, 1896.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. CORLISS, from the Committee on Interstate and Foreign Commerce, submitted the following:

REPORT:

[To accompany H. R. 3552.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 3552) providing for sundry lights, and so forth, in lakes Huron and Superior, respectfully report the same back and recommend that the bill do pass.

Middle Island, in Lake Huron, is situated midway between Presque Isle and Thunder Bay, having established thereon a life-saving station, being a great harbor of refuge. St. Martins Reef, in Lake Huron, and Crisp Point, in Lake Superior, are also important points of navigation. A crib at the end of the breakwater at Marquette, for the purpose of securing a permanent position for the light and fog signal at that point is deemed important.

Your committee submits herewith the correspondence had with the Treasury Department, and which is made a part of this report.

TREASURY DEPARTMENT,
Washington, January 31, 1896.

SIR: The letter from your committee, of January 29, 1896, inclosing H. R. bill No. 3552, providing sundry lights in lakes Huron and Superior, and asking an estimate of the cost of each of such lights, has been received.

The matter was referred to the Light-House Board, which reports that it will cost \$20,000 to establish a light and fog signal on Middle Island, Lake Huron.

That it is estimated it will cost \$25,000 to establish a light vessel with fog signal at Martins Reef, Lake Huron.

That it is estimated it will cost \$20,000 to establish a light and fog signal at Crisp Point, Lake Superior.

And that as it is unknown what it will cost to move the keeper's dwelling, light, and fog signal "to a crib to be located just inside the end of the breakwater at Marquette," the Board has referred the matter to its local officers, and it will report further with regard to this matter when it receives the information in question.

Respectfully, yours,

C. S. HAMLIN,
Acting Secretary.

The CHAIRMAN OF THE COMMITTEE ON
INTERSTATE AND FOREIGN COMMERCE,
House of Representatives, Washington, D. C.

TREASURY DEPARTMENT,
Washington, D. C., February 8, 1896.

SIR: Referring again to the letter from your committee, of January 29, 1896, inclosing H. R. bill No. 3552, and asking an estimate of the cost of each light contemplated in that bill, which was answered in part on January 31, 1896, I have the honor to state that the Light-House Board reports that it is estimated that it will cost \$28,000 to erect a crib inside the end of the breakwater at Marquette, and to erect on the crib a keeper's dwelling and remove the light and the fog signal on the breakwater to a position on that crib.

Respectfully, yours,

S. WIKE, *Acting Secretary.*

The CHAIRMAN OF THE COMMITTEE ON
INTERSTATE AND FOREIGN COMMERCE,
House of Representatives, Washington, D. C.

TREASURY DEPARTMENT,
Washington, D. C., January 17, 1896.

SIR: I have the honor to acknowledge the receipt of a letter from your committee, of January 14, 1896, inclosing H. R. bill No. 3552, providing for sundry lights, and so forth, in lakes Huron and Superior.

In reply, I have to inform you that the matter was referred to the Light-House Board, which reports that it sees no objection to the passage of this bill.

Respectfully, yours,

S. WIKE, *Acting Secretary.*

The CHAIRMAN OF THE COMMITTEE ON
INTERSTATE AND FOREIGN COMMERCE,
House of Representatives, Washington, D. C.

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LIGHT-HOUSE AND FOG-SIGNAL STATION, BIG OYSTER
BED SHOAL, NEW JERSEY.

FEBRUARY 14, 1896.—Committed to the Committee of the Whole House on the state
of the Union and ordered to be printed.

Mr. CORLISS, from the Committee on Interstate and Foreign Com-
merce, submitted the following

REPORT:

[To accompany H. R. 55.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 55) for the establishment of a light-house and fog-signal station at or near Big Oyster Bed Shoal, New Jersey, respectfully report the same back with a petition therefor submitted to your committee.

It appears on page 179 of the Book of Estimates that the Light-House Board recommended the establishment of this additional protection to navigation, with the estimated cost thereof, from which it appears that the interest of commerce and navigation demand the establishment of the light-house proposed by this bill.

Your committee recommend that the bill do pass.



GAS BUOYS IN ST. LAWRENCE RIVER.

FEBRUARY 14, 1896.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. CORLISS, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. R. 4989.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 4989) establishing gas buoys in the St. Lawrence River, report the same back and recommend that the bill do pass.

Your committee believe, from the information obtained from the Treasury Department and other sources, that the interests of commerce and navigation demand the establishment of buoys in the St. Lawrence River at the points indicated, and submit herewith the correspondence had with the Treasury Department and which is made a part of this report.

TREASURY DEPARTMENT,
Washington, D. C., February 7, 1896.

SIR: The letter from your committee, of January 31, 1896, inclosing H. R. 4989, "A bill for the establishment of gas buoys in the St. Lawrence River," and asking suggestions as to the merits of the bill and the propriety of its passage, has been received.

This matter was referred to the Light-House Board, which replies that it has asked its local officers for recommendation and report on the subject, and that further reply will be made when that report is received.

Respectfully, yours,

S. WIKE,
Acting Secretary.

The CHAIRMAN OF THE COMMITTEE ON
INTERSTATE AND FOREIGN COMMERCE,
House of Representatives.

TREASURY DEPARTMENT,
OFFICE OF THE LIGHT-HOUSE BOARD,
Washington, February 10, 1896.

Gen. NEWTON M. CURTIS,
House of Representatives.

In reply to your inquiry, I have to inform you that the inspector of the Tenth district approves the plan of placing gas-lighted buoys at the points named in the bill, as he considers it greatly to the interest of safe navigation in the St. Lawrence River, and I heartily agree with him.

GEO. F. F. WILDE,
Naval Secretary.

NATIONAL MILITARY PARKS.

FEBRUARY 14, 1896.—Referred to the House Calendar and ordered to be printed.

Mr. TRACEY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 175.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 175) authorizing the Secretary of War to make certain uses of national military parks, have considered the same, and beg leave to report:

The object sought by the bill as introduced into the House is, in the opinion of your committee, most commendable.

The policy of establishing national military parks on the principal battlefields of the Republic, thus preserving for the study of future generations these imperishable monuments of the patriotism of the past, appeals at once to the wisdom and patriotism of the whole people.

Nowhere else can the art of war be studied with equal facilities as upon the fields where it received the highest and most successful illustration.

The bill (H. R. 175) contemplates the use of but a single one of the great battlefields to be preserved as mementos of the devotion and heroism of the past, and while for certain reasons that may be entitled to the first rank for the uses contemplated by the bill, your committee are of opinion that other battlefields embraced in national military parks already created, or that may hereafter be created, may well be included.

As the bill involves no appropriation, it can be considered solely with reference to the objects and purposes contemplated.

While the Secretary of War now has authority to assemble troops on these Government reservations, the spirit of the act of cession by the State of Georgia of the fields of Chickamauga and Chattanooga to the United States makes it seem more fitting that the specific uses contemplated, both for the regular troops and the National Guard, should receive the approval of Congress.

There is probably no other battlefield of the world which presents at once such full and complete object lessons of great battles and extended tactical and strategic movements as that of Chickamauga and Chattanooga. The diversity of surface presents every feature of topography which could be met with in actual war. Mountains, plains, forests, wooded and bare ridges, both rounded and precipitous, a formidable river and smaller streams, over and about all of which some of the largest armies of modern times assembled for battle and fought through several engagements under some of the most distinguished officers which either side produced.

It has been truly said that one field, that of Chickamauga, was the

deadliest of the war, while that of Chattanooga, including Missionary Ridge, was the most dramatic. As a theater for military instruction, with its 10 square miles of battlefield and 40 miles of approaches, it can not be excelled. No other government owns such a theater of notable engagements.

A month's campaigning for practical study on such a field of maneuvers by the corps of West Point cadets, where the lines of battles and the movements in the engagement of nearly every organization on each side have been ascertained and so marked with historical tablets as to make the battlefields intelligible to visitors, where the best efforts of war of distinguished officers with veteran soldiers are made apparent, would be worth an entire course in text-books on the strategy of a campaign and battle tactics.

Your committee is strongly impressed by the remarkable advantages for military study afforded by these extensive battlefields, but there are others which, while not so extensive nor combining such a diversity of topographical features, may yet be useful for the purposes contemplated, especially as it is intended to embrace the National Guard of the several States in the practical instruction to be given and thus raise the military standing of the guard and make of it an efficient national body which in time of war may act in full accord with the War Department and the forces of the Regular Army.

Your committee therefore have reached the conclusion that it is best to make the bill general in its character, so as to include all of the national military parks available for instruction.

The Government ownership at Gettysburg and Shiloh is sufficient to afford ample camping ground for large bodies of troops and full opportunities for exhaustive studies of those important battles. The field of Gettysburg especially is of such open character as to render the details of that great battle, vast as were its movements, easily understood.

Probably nowhere else on earth can an area be found so valuable for the practical study of all the elements which enter into great campaigns and battles as that which the Government owns about Chattanooga. The grand strategy of the campaign which ended there, the front of the advance movement covering 150 miles, extending through a formidable mountain region, moving over mountain ranges and a wide and deep river, the whole of this vast theater of war, the ground of five days of great battles and several of lesser importance, being overlooked from the point of Lookout Mountain and the observation towers erected by the Government in the park, altogether present a field for practical instruction in the art of war, it is believed, without an equal in the world.

In view, however, of the wisdom of familiarizing our military forces with different fields and with the varied character of approaches to great and decisive battles, your committee recommend that all national military parks and their approaches shall be national fields for military maneuvers, and to that end recommend the adoption of the following amendments to H. R. 175:

Amend the title by striking out the words "the Chickamauga and Chattanooga," and the words "and other purposes." Insert "s" after "park" and the word "military" between "national" and "parks."

Amend the bill by striking out of lines 4 and 5, in section 1, the words "the Chickamauga and Chattanooga." Insert "s" after "park" in the fifth line, "military" between "national" and "parks," "said" between "parks" and "parks," substitute "their" for "its," and in line 6 strike out "a" between "be" and "national," and insert "s"

after "field." In line 5 of section 2 substitute "such" for "this," and insert the following proviso at the end of section 1:

Provided, That the said parks shall be opened for such purposes only in the discretion of the Secretary of War and under such regulations as he may prescribe.

So that section 1 of the bill shall read as follows:

SECTION 1. That in order to obtain practical benefits of great value to the country from the establishment of national military parks said parks and their approaches are hereby declared to be national fields for military maneuvers for the Regular Army of the United States and the National Guard of the States: *Provided*, That the said parks shall be opened for such purposes only in the discretion of the Secretary of War and under such regulations as he may prescribe.

With the proposed amendments your committee report the bill favorably and recommend that it do pass.

Notes on House Bill 175.

While the Secretary of War might assemble portions of the regular forces of the United States under authority which he now has, as the intention of the bill is to make the park a national maneuvering ground for both regular troops and the National Guard, it seems best that general authority in regard to the whole plan should be enacted into a separate statute.

The bill involves no appropriation, since the forces which might be assembled under it would encamp in tents.

The legal limits of the park embrace 15 square miles, of which the United States now owns in fee simple about 10 square miles.

In addition to this area the Government owns the roads along the Union and Confederate lines of battle upon Lookout Mountain and Missionary Ridge. These from their elevated position afford a clear view of all the details of tactical movement and battle in the Browns Ferry affair, the battle of Wauhatchie, and the three days' battles at Chattanooga.

The Chickamauga portion of the park embraces the ground of two days' general engagements.

The ground thus covered by the Government, and available for military studies of a thoroughly practical character and for maneuvers equal to the movements of great armies in actual battle, embraces at the same time almost every natural feature which would be encountered in any campaign—such as formidable ridges and mountains, open plain, level forests, and both bare and wooded ridges, with a stream which is of sufficient size to be a pronounced military obstacle, and besides a formidable river, which is overlooked for many miles and which was a controlling element in the great battles about Chattanooga.

No other Government owns such a theater of notable engagements. As a field of military study and practical maneuvers it can not be excelled.

The lines of battles and the movements in the engagement of nearly every organization on each side have already been ascertained and so marked with historical tablets as to make the fields intelligible to all visitors.

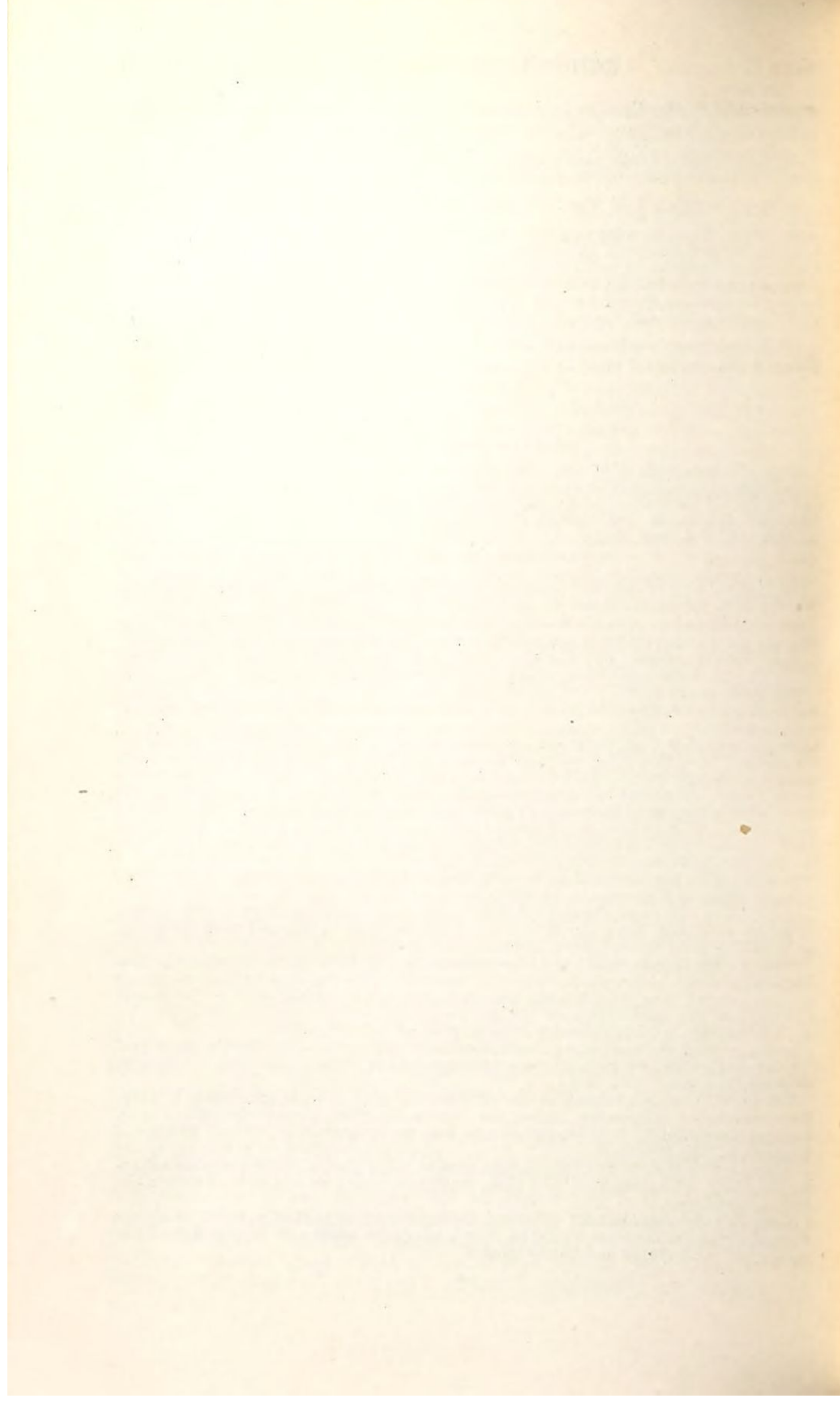
Officers and soldiers would have an opportunity to study on the ground the best efforts in war of which such distinguished generals as Rosecrans and Thomas, Bragg and Longstreet were capable with seasoned soldiers at Chickamauga. This would also include the observation of the Union cavalry under Stanley, Mitchell, and McCook and the opposing cavalry corps of Forrest and Wheeler.

On the ground at Chattanooga such studies would include the battle plans and their execution under Grant, Thomas, Sherman, and Hooker on one side, and Bragg's army on the other.

There would be such lessons as are afforded by that miracle in military history, the storming of Missionary Ridge, the memorable assault upon and carrying of Lookout Mountain by Hooker, and the no less memorable and brilliant defense of the mountain by Walthall.

Every step in the Browns Ferry affair, that notable plan of Rosecrans's for relieving the army in Chattanooga, is in plain view from roads upon Lookout which the Government owns.

A month's campaigning for practical study on such a field of maneuvers by the corps of West Point cadets would be worth an entire course in text-books on the strategy of a campaign and battle tactics.



SOLICITOR OF INTERNAL REVENUE.

FEBRUARY 14, 1896.—Referred to the House Calendar and ordered to be printed.

Mr. BROSIUS, from the Committee on Reform in the Civil Service, submitted the following

REPORT:

[To accompany H. R. 3822.]

The Committee on Reform in the Civil Service, to whom was referred the bill (H. R. 3822) to abolish the office of Solicitor of Internal Revenue, and for other purposes, begs leave to report the same back with the recommendation that the bill do pass.

The best information the committee has been able to obtain relative to the subject-matter of the bill is found in the report of the Joint Commission of Congress to Inquire into the Status of Laws Organizing the Executive Departments. That Commission reported to the third session of the Fifty-third Congress as follows:

The Joint Commission of Congress to Inquire into the Status of Laws Organizing the Executive Departments, to whom was referred the bill (H. R. 8939) to abolish the office of Solicitor of Internal Revenue, and for other purposes, having considered the same, report it back herewith and recommend its passage.

There is submitted as an appendix herewith the report of the experts of the Commission submitting reasons for the passage of said bill.

ALEXANDER M. DOCKERY,
JAMES D. RICHARDSON,
NELSON DINGLEY, JR.,

Managers on the Part of the House of Representatives.

G. M. COCKRELL,
JAMES K. JONES,
Managers on the Part of the Senate.

And also the report of experts under the said Joint Commission to Examine the Executive Departments made to said Commission on January 25, 1895, which is hereto appended:

OFFICE OF EXPERTS UNDER THE JOINT COMMISSION
TO EXAMINE THE EXECUTIVE DEPARTMENTS,
Washington, D. C., January 25, 1895.

DEAR SIR: Your experts, in an examination of the office of Solicitor of Internal Revenue, beg to make the following report and recommendations thereon:

The Solicitor of the Treasury has an assistant, a chief clerk, and about twelve men. His force is as follows:

1 Solicitor	\$4,000
1 assistant solicitor.....	3,000
1 chief clerk.....	2,000
3 clerks of class 4, at \$1,800.....	5,400
3 clerks of class 3, at \$1,600.....	4,800
4 clerks of class 2, at \$1,400.....	5,600
1 assistant messenger.....	720
1 laborer.....	660
Total	26,680

His duties are laid down by law, and are diversified. There is considerable responsibility connected with his office. He passes upon the form of all bonds, and also as to the sufficiency of surety in the case of bonds given by collectors of internal revenue.

The office of Solicitor of Internal Revenue was created by section 349 of the Revised Statutes. His force is as follows:

1 Solicitor	\$4,500
1 stenographer (assigned from Commissioner's office)	1,400
Total.....	5,900

He has no independent official function, as the decisions of the Commissioner are final upon all questions. His duties relate entirely to, and are performed in, the Bureau of Internal Revenue, although as one of the law officers of the Government he is placed by law under the supervision of the Attorney-General. He is actually the law officer and law adviser of the Commissioner of Internal Revenue.

The only duties of this solicitor of which mention is made by law are those required in connection with the compromise of cases arising under the internal-revenue laws. It is declared in section 3229 of the Revised Statutes that "whenever a compromise is made in any case there shall be placed on file in the office of the Commissioner the opinion of the Solicitor of Internal Revenue, or the officer acting as such, with his reasons therefor."

The Solicitor of the Treasury is the legal adviser of the Treasury Department, and there is no good reason why there should be a separate solicitor for the Internal-Revenue Bureau. The duties of the latter could be performed by the Solicitor of the Treasury without any additional force. The abolition of the office of Solicitor of Internal Revenue would bring under one head the legal business of the Treasury Department, and would avoid any conflict. The Solicitor of the Treasury now performs certain duties for the Internal-Revenue Bureau, and it is proper that he should have full supervision of all legal questions.

It is therefore recommended that the office of Solicitor of Internal Revenue be abolished, and the duty imposed upon the Solicitor of Internal Revenue by section 3229 of the Revised Statutes be performed by the Solicitor of the Treasury.

The saving by the carrying out of this recommendation would be, say, \$4,500 per annum, and would result in a more consistent organization of the legal business of the Treasury Department.

Respectfully submitted.

C. W. HASKINS,
E. W. SELLS,
Experts.

Hon. A. M. DOCKERY,
Chairman Joint Commission, etc., Washington, D. C.



KANSAS CITY, FORT SCOTT AND MEMPHIS RAILROAD COMPANY.

FEBRUARY 14, 1896.—Referred to the House Calendar and ordered to be printed.

Mr. FISCHER, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany H. R. 5382.]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 5382) to authorize the Kansas City, Fort Scott and Memphis Railroad Company to extend its line from Baxter Springs to Miami, in the Indian Territory, submit the following report:

This bill (H. R. 5382) authorizes the Kansas City, Fort Scott and Memphis Railroad Company to extend its line into the Indian Territory from Baxter Springs to Miami, in the Indian Territory, a distance of about 12 miles.

The main line of said road runs from Kansas City, Mo., via Fort Scott, Kans., to Memphis, Tenn., with a branch from Fort Scott to Baxter Springs and thence south to the north line of the Indian Territory. This bill authorizes the company to extend its road about 12 miles to the town of Miami, on the Neosho River. From the State line to Miami the proposed extension is an air line, running through a level, fertile, prairie country, which we believe has been allotted to individual Indians and is now either in cultivation or held as meadow lands, from which large crops of hay are cut each year.

The country beyond the Neosho, and tributary to Miami, is rich and productive, but, generally speaking, is kept for grazing purposes, because they have no railroad to carry agricultural products to market.

At present, and ever since the lands along the proposed line of road to Miami were allotted and put in cultivation, the farmers have been compelled to haul their wheat, corn, hay, and other surplus products in wagons to the railroad at Baxter Springs, a distance of from 6 to 15 miles. The result of this lack of railway facility is a loss to the people of the region.

Besides the importance of a railroad to the farmers of that country, the town of Miami, which contains a population of about one thousand people, is also interested. The shipping to and from a town of that size is quite considerable. In addition to the ordinary trade and travel, they have an extensive quarry of superior stone, which requires railroad facilities.

The United States court for the northern district of the Indian Territory is also held at Miami. These, it would seem, are good reasons why the railroad should be extended to Miami, especially when many persons along the proposed line of said road and in the town and vicinity of Miami are anxious to have it built.

2 KANSAS CITY, FORT SCOTT AND MEMPHIS RAILROAD COMPANY.

Your committee is informed that the councils of the Quapaw, Peoria, and Ottawa tribes have each passed acts granting the right of way through their respective reservations, which are on file in the Indian Office.

The railroad company, we are also informed, has on hand all the iron and other material necessary for the speedy construction of said road, and as soon as the authority is given the company will commence and prosecute the work to completion.

The committee recommend that the bill be amended as follows:

Provided, That in addition to the compensation herein provided for said railroad company shall pay to the Secretary of the Interior, for the benefit of the tribes through whose lands the said railroad may be constructed, the sum of fifty dollars per mile for each mile of road constructed through tribal lands which have not been allotted to individual Indians. Said company shall also pay, so long as said lands are owned and occupied as tribal property, to the Secretary of the Interior, the sum of fifteen dollars per annum for each mile of railway it shall construct through the said Territory. And the money paid the Secretary of the Interior under the provisions of this Act shall be apportioned by him among the several tribes in accordance with the number of miles of road that may be constructed through each reservation: *Provided further*, That Congress shall have the right, so long as said lands remain as tribal property, to impose such additional taxes upon said railroads as may be deemed just and proper for their benefit, and the like power may be exercised by any State or Territory which may hereafter be formed.

And that as so amended, be passed.



HALVOR K. OMLIE.

FEBRUARY 14, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BOWERS, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany S. 818.]

The Committee on the Public Lands have had under consideration the bill (S. 818) for the relief of Halvor K. Omlie, and report the same back with the recommendation that it do pass.

The following communications from the Interior Department furnish abundant reasons for favorable action:

DEPARTMENT OF THE INTERIOR,
Washington, D. C., January 23, 1896.

SIR: I have the honor to hand you herewith a copy of the report of the Commissioner of the General Land Office, dated the 21st instant, on S. 818, for the relief of Halvor K. Omlie, of Homen, North Dakota, with the statement that I see no objection to the passage of the bill.

Very respectfully,

HOKE SMITH, *Secretary.*

HON. FRED T. DUBOIS,
Chairman Committee on Public Lands, United States Senate.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., January 21, 1896.

SIR: I have the honor to acknowledge the receipt, for report in duplicate and return of papers, of Senate bill 818, Fifty-fourth Congress, first session, entitled "A bill for the relief of Halvor K. Omlie, of Homen, North Dakota," referred to you for consideration by the Committee on Public Lands.

Under the joint resolution of Congress approved September 30, 1890 (26 Stat. L., 684), Omlie was granted a year's extension of time for payment for his preemption claim, NW. $\frac{1}{4}$ sec. 8, T. 163 N., R. 58 W., Grand Forks district, North Dakota, or one year from the date upon which his proof was made, viz, May 12, 1893, the time being thus extended to May 12, 1894.

By letter of this office of December 6, 1895, the application of Omlie for a second extension of one year on the ground of the dangerous illness of his wife, entailing an expense of from \$300 to \$500, and the loss of his improvements, valued at \$1,160, in the event that additional time should not be granted, was denied, it being found that no authority of law existed therefor.

This case, however, appears a deserving one, and his inability to pay the required amount for purchase of his land the result of causes beyond his control.

The bill provides for a year's extension of time for payment from the passage of this act. This office sees no objection to its becoming a law.

Very respectfully,

E. F. BEST, *Assistant Commissioner.*

The SECRETARY OF THE INTERIOR.

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LIGHT-VESSEL OFF FIRE ISLAND, NEW YORK.

FEBRUARY 14, 1896.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. BARTLETT, of New York, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. R. 5293.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 5293) for a light-vessel off Fire Island, New York, respectfully report the same back with the exhaustive report and communications from the Treasury Department with three amendments, and recommend that the bill do pass.

Your committee believe from the correspondence submitted herewith that the interests of commerce and navigation demand the establishment of a light-vessel at this point.

The committee recommend the following amendment suggested by the Treasury Department:

Insert in line 3, after the word "that," the words "there be established off Fire Island, New York;" so that it will read, "that there be established off Fire Island, New York, a first-class light-vessel, etc."

Also amend by striking out the words "is hereby authorized" in lines 3 and 4.

Also amend by striking out all after the word "vessel" in line 13.

TREASURY DEPARTMENT,
Washington, D. C., February 6, 1896.

SIR: The letter from your committee of February 5, 1896, inclosing H. R. bill No. 5293 for a light-vessel off Fire Island, New York, and asking suggestions touching the merits of the bill and the propriety of its passage, has been received.

The Light-House Board, to which the bill was referred, reports as follows:

The Board recommended the establishment of this light-vessel, giving its reasons therefor on pages 68 and 69 of its Annual Report for 1895, an extract from which, covering the case, is inclosed herewith.

The Board reports back the bill with urgent recommendation that it be passed; but it suggests that it be amended, the better to carry out its intention, by inserting in line 3, after the word "that," the words "there be established off Fire Island, New York;" so that it will read, "that there be established off Fire Island, New York, a first-class light-vessel."

Inclosed there is sent for your further information copies of various petitions and the like, filed in the office of the Light-House Board, asking the establishment of the light-ship in question.

Respectfully, yours,

S. WIKE, *Acting Secretary.*

The CHAIRMAN OF THE COMMITTEE
ON INTERSTATE AND FOREIGN COMMERCE,
House of Representatives.

[Extract from pages 68 and 69 of the Annual Report of the Light-House Board for 1895.]

Light-vessel off Fire Island, Atlantic coast of Long Island, New York.—The principal ocean and coast steamship owners, agents, masters, pilots, and underwriters have petitioned the Light-House Board to establish a light-ship with a powerful fog signal in place of the whistling buoy some 6 miles off Fire Island, giving therefor, in effect, the following reasons:

All incoming transatlantic steamers and vessels at present lay their course from, say, 10 to 15 miles south of Nantucket light-ship to Sandy Hook light-ship, passing Fire Island as close as possible in clear weather, that they may be reported from the signal station at that point.

In thick or foggy weather, or during the prevalence of snowstorms, when Fire Island light is not visible, commanders have to rely entirely upon the soundings, which, however, in the neighborhood of the entrance to the port of New York merely indicate the proximity of the land, but do not indicate the ship's location. Any vessel having overrun her distance may thus approach the dangerous Jersey coast, where soundings are unreliable.

The whistling buoy now off Fire Island can be seen only for a limited distance. In foggy weather, or at night when there is but little sea on, its sound is seldom heard by passing vessels.

At present there is no fog signal at Fire Island light-house, but if there was there is question as to whether it could be heard distinctly with easterly, southeasterly, southwesterly, or southerly winds, when fog prevails. A light-vessel in this locality would fully meet the requirements of commerce, both in clear and thick weather.

Incoming transatlantic vessels endeavor to keep at least in 20-fathom soundings off the Long Island shore. They would, therefore, come within the sound of a fog siren on a light-vessel placed, say, within 6 or 8 miles of the Fire Island light-house. When they pick up this sound they could shape their course for Sandy Hook light-vessel or the entrance to the port.

The necessity for increased security, such as would be given by a light-vessel placed in this locality, is great. The value of the regular transatlantic steamers passing this point bound for New York every week is about \$13,000,000. The number of transient steamers and sailing vessels which go by Fire Island is enormous.

The number of incoming passengers passing Fire Island from the north of Europe every year averages 450,000, and the value of cargoes carried by these steamers represents annually many millions of dollars.

The principal value to navigation of a light-vessel off Fire Island would be its fog signal, which could be heard when neither the light of the light-house nor of the light-vessel could be seen.

It is estimated that the establishment of a light-vessel with all the modern improvements, in place of the whistling buoy now off Fire Island, would cost not exceeding \$80,000, and it is recommended that an appropriation of this amount be made therefor.

REPLACING OF THE WHISTLING BUOY AT FIRE ISLAND BY A LIGHT-SHIP, ETC.

WHITE STAR LINE, *New York, August 30, 1895.*

SIR: With reference to previous correspondence on this subject, I now have the pleasure of handing you a petition signed by the various steamship lines running into the port of New York, by the pilot commissioners, principal underwriters, merchants, etc., recommending that a light-ship with telephone communication to the shore be stationed at Fire Island in place of the present whistling buoy, and also further recommending and asking your honorable board to establish telephonic connection between the shore and the Nantucket South Shoal light-ship, coupled with the request that that light-ship be moved about 4 miles farther south.

Our marine superintendent, a gentleman of a life's experience in the Atlantic trade, remarks as follows:

"I would certainly recommend that a light-vessel be placed off Fire Island instead of the buoy at present placed there. I also think that a telephone from the South Shoal light-vessel would be of great service."

For your further information I also beg to inclose the written reports of many Atlantic commanders touching upon the question.

Commending it to your kind attention, I am, sir, yours faithfully,

H. MAITLAND KERSEY.

Commander GEO. F. F. WILDE, U. S. N.,
*Naval Secretary Light-House Board,
 Treasury Department, Washington, D.C.*

PAQUEBOT-POSTE, "LA BOURGOGNE," 31 Juillet, 1895.

Monsieur l'AGENT GÉNÉRAL: En réponse à votre lettre du 20 courant, j'ai l'honneur de vous informer que je suis complètement de l'avis des commandants de la Whit Star Line. La nécessité d'avoir un signal sonore très-sérieux à Fire Island se fait sentir chaque jour davantage. La bouée à sifflet n'est qu'une plaisanterie; elle ne peut être utile qu'avec caboteurs, et une campagne sérieuse s'impose pour obtenir l'établissement à Fire Island d'un signal sonore dans le genre de ceux que nous avons en France à Barfleur et au Cap d'Antifer, signaux que par temps calme et brumeux, j'ai parfaitement entendus à plus de six milles.

Recevez, Monsieur l'Agent, l'assurance de mes sentiments respectueux.

A. LEBOEUF,

Le Capitaine de "La Bourgogne."

Monsieur l'AGENT GÉNÉRAL DE LA CIE.

Générale Transatlantique.

A BORD DE LA "LA CHAMPAGNE,"

New York, le 26 Juillet, 1895.

Monsieur l'AGENT GÉNÉRAL. En réponse à votre lettre en date du 22 courant me demandant si je ne pense pas qu'il y aurait avantage à remplacer la bouée actuelle de Fire Island par un système de signaux permettant, par un fort brouillard, de se rendre compte de la position du phare, j'ai l'honneur de vous informer qu'à mon avis l'installation des signaux dont vous parlez, serait pour la navigation, en temps de brume, une aide considérable qui rendrait relativement facile l'atterrissage de New York, si délicat et si dangereux par temps de brume.

Je dois dire que la bouée actuelle ne me paraît d'aucune utilité pour les grands navires à vapeur. Son sifflet, s'il y en a un, est certainement très faible, et ne peut être entendu d'un navire à vapeur en marche à moins qu'il ne passe à la ranger. Si le temps est assez clair pour permettre de voir la bouée, on a chance alors d'apercevoir le phare; elle est donc inutile.

Maintenant, si on établissait une station de signaux de brume dans les environs du méridien de Fire Island, je pense qu'il y aurait intérêt à étudier la question de savoir si ce ponton ne devrait pas être placé un peu plus sud que la bouée. La bouée se trouve à peu près sur la ligne qui joint le Ponton de Nantucket (New South Shoal) au ponton de Sandy Hook; or, un navire qui n'est pas certain de sa position, à partir des bancs George, se méfie des dangers qui sont dans le Nord, les courants généralement le jettent encore plutôt dans le Sud, donc un ponton mouillé plus Sud que la bouée actuelle serait mieux placé à mon avis, étant plus près des routes suivies, les signaux auraient plus de chance d'être entendus.

En tout cas je ne saurais trop insister "sur l'énorme avantage qui résulterait pour la navigation de l'installation dans les environs du méridien de Fire Island de signaux de brume bien distincts de ceux du Ponton de Sandy Hook."

Veuillez agréer, Monsieur l'Agent Général, l'assurance de mes sentiments respectueux et dévoués.

POIVOT,

Lieutenant de Vaisseau, Commandant "La Champagne."

A Monsieur FORGET,

Agent Général de la Compagnie Générale

Transatlantique à New York.

DAMPFER HAVEL,

New York, den 23 August, 1895.

DEAR SIR: The establishment of a light-vessel south of Fire Island would, in my opinion, be a most important step toward perfecting the safeguards in the approaches to New York Harbor, and I believe mariners in general would welcome such an improvement with entire unanimity.

I hope that the plan to establish communication from Nantucket South Shoal light-ship to the land by telephone will be carried out.

Yours, very respectfully,

J. K. JUNGST,

Commander North German Lloyd S. S. Havel.

T. MIROW,

Chief Officer.

GUSTAV H. SCHWAB, Esq.,

2 Bowling Green, New York.

DAMPFER WITTEKIND,
Hoboken, August 22, 1895.

DEAR SIR: In accordance with your request for my opinion as to the desirability of the establishment of a light-vessel off Fire Island equipped with powerful fog signals, I would say that I should consider such a light-vessel a most valuable aid to vessels approaching New York harbor. I should look upon the connection of the Nantucket South Shoal light-ship by telephone with the land as a marked improvement over present conditions.

Yours, very respectfully,

O. CUPPERS,
Commander North German Lloyd S. S. Wittekind.

GUSTAV H. SCHWAB, Esq.,
2 Bowling Green, New York.

DAMPFER STUTTGART,
Hoboken, den 14 August, 1895.

DEAR SIR: I have carefully considered the subjects about which you spoke to me, and would say that I should be very much pleased if it should be decided to establish a light-vessel off Fire Island provided with powerful fog signals, as a light-ship placed in this location would fully meet the needs of commerce in all kinds of weather and would be of invaluable assistance to vessels in shaping their course for the Sandy Hook light-ship.

I am also very much in favor of the connection of the Nantucket South Shoal light-ship with the land by telephone, as a report from Nantucket would enable all the necessary arrangements to be made for the quick discharge of passengers on arrival at New York.

Yours, very respectfully,

D. KOHLENBECK,
Commander North German Lloyd S. S. Stuttgart.

GUSTAV H. SCHWAB, Esq.,
2 Bowling Green, New York.

NEW YORK, den August 15, 1895.

DEAR SIR: I wish to state that I am most emphatically in favor of the proposed plan to place a light-vessel off Fire Island, as at present in thick or foggy weather Fire Island is not visible and captains are obliged to rely entirely upon soundings, which in the neighborhood of the port of New York do not indicate the ship's position. Greatly increased security would be guaranteed by the establishment of such a light-vessel.

I am equally in favor of the connection of the Nantucket South Shoal light-ship with the land by telephone, as this would enable steamers to be telegraphed to New York at least seven hours earlier than they are now telegraphed from Fire Island.

Yours, very respectfully,

A. MEIER,
Commander North German Lloyd S. S. Fulda.

GUSTAV H. SCHWAB, Esq.,
2 Bowling Green, New York.

DAMPFER SPREE, HOBOKEN, den August 15, 1895.

DEAR SIR: Referring to the proposed plan to place a light-vessel off Fire Island provided with powerful fog signals, I wish to say that this, in my judgment, would be a most valuable aid to vessels approaching this harbor, and I trust that the proposition will receive the favorable consideration of the light-house authorities. Such a light-vessel would make it possible for steamers to lay their course for Sandy Hook light-vessel with entire safety in all kinds of weather and would be a marked improvement over present facilities.

I hope that Nantucket South Shoal light vessel will be connected with the land by telephone, as I should consider this a most valuable adjunct to navigation, for the reason that steamers would be reported much earlier than at present, and should a vessel become disabled her chance of receiving assistance would be much increased by the establishment of such a telephone service.

Yours, very respectfully,

W. WILLIGOROD, Captain S. S. Spree.

GUSTAV H. SCHWAB, Esq.,
2 Bowling Green, New York.

NORDDEUTSCHER LLOYD, DAMPFER TRAVE,
New York, den August 9, 1895.

DEAR SIR: In reply to your letter, please consider me as entirely in favor of the proposed improvement in the approaches to New York Harbor.

A light-vessel off Fire Island would be one of the greatest steps undertaken toward rendering the approach to New York Harbor safe, and would probably prevent many disasters and wrecks in the future. The establishment of telephone connection between Nantucket South Shoal light-ship and the land can not be too highly recommended, as it would enable steamers to be reported to New York seven or eight hours earlier than is now possible, and in case of accidents or disaster aid could be rendered quickly.

Also a change of the lights on the Nantucket South Shoal light-ship would be a great improvement, as it is now, in many cases, not possible to distinguish the lights of the light-vessel from those of fishermen.

Yours, respectfully,

C. THALENHORST,
Commander North German Lloyd S. S. Trave.

Mr. GUSTAV H. SCHWAB,
2 Bowling Green, New York City.

DAMPFER LAHN, New York, den August 9, 1895.

DEAR SIR: In reply to your inquiry with regard to the value of a light-ship established south off Fire Island, I would say that I consider a light-ship to be of the greatest importance to vessels bound for New York, as it gives them an absolutely reliable point from which to shape their course for Sandy Hook, and such a light-ship, equipped with a powerful fog siren, could be made in fog or thick weather by vessels coming from the eastward along the Long Island coast.

The connection of Nantucket South Shoal light-ship with the land by telephone I consider to be of great value to incoming steamers as well as to vessels in distress.

Yours, very respectfully,

B. BUNKE,
Commander North German Lloyd S. S. Lahn.

Mr. GUSTAV H. SCHWAB,
2 Bowling Green, New York City.

R. M. S. BRITANNIC.

DEAR SIR: In reply to your letter as to the advisability of establishing a fog signal at Fire Island, I beg to say that in my opinion it would be a decided advantage; and the buoy might be dispensed with, as in my experience not one ship in ten makes it when approaching the coast.

I beg to remain, truly yours,

H. SMITH.

Mr. KERSEY.

WHITE STAR LINE, New York, July 16, 1895.

DEAR SIR: In reply to your inquiry in regard to establishing a fog signal on Fire Island, I am very glad to hear that such a signal has been brought forward by you, as I consider it most desirable and a want that I have personally long felt.

Hoping that you will effect this desirable safeguard to navigation in thick or hazy weather, I remain, yours truly,

W. H. CLARKE, S. S. Normandie.

H. MAITLAND KERSEY, Esq., 29 Broadway.

R. M. S. MAJESTIC, New York, June 18, 1895.

DEAR SIR: In reply to your inquiry re fog siren at Fire Island, I am certainly of opinion that it is necessary to have some efficient means of informing passing vessels of the locality of that important point in a fog. The present whistling buoy is not sufficient, and can seldom be heard more than a few ships' lengths off. It frequently happens that ships approaching New York have run great distances without observations and no guide but the soundings. I am sure that from personal

experience I would frequently have been very glad to have had my position verified by a signal from Fire Island.

The signal need not be a fog siren especially. Two guns or one, or an explosive rocket from the light tower in the air at known intervals would be equally good. Hoping to have something more efficient than the buoy soon,

I am, yours, very respectfully,

H. PASSELL.

H. MAITLAND KERSEY, Esq.,

Agent White Star Line.

S. S. CEVIC, *New York, July 2, 1895.*

DEAR SIR: In reference to your letter of the 17th June, re fog siren at Fire Island, in my opinion a powerful fog siren or gun would be a great benefit in coming in toward the land in foggy weather.

The present whistling buoy off Fire Island is of little use; otherwise, rather an obstruction.

I am, dear sir, yours, truly,
H. MAITLAND KERSEY, Esq.

HERBERT NICOL, *Commander.*

S. S. RUNC, *New York, June 27, 1895.*

SIR: In reply to your letter of the 17th instant re fog siren on Fire Island, I beg to state, in my opinion, a powerful fog siren on Fire Island would be very serviceable to a ship approaching the coast in thick weather, and consider the whistling buoy as worthless.

If I may be allowed to make a suggestion regarding any alteration, viz:

A light-vessel with a powerful siren placed in the same position as the whistling buoy would be most beneficial, and telegraph or telephone communication between light-vessel and the shore would be an additional advantage.

I remain, sir, your obedient servant,

C. LANCASTER, *Commander.*

H. MAITLAND KERSEY, Esq.

R. M. S. TEUTONIC, *August 6, 1895.*

DEAR SIR: In reference to yours of July 8, re "fog signal on Fire Island," I have given the matter my careful consideration and am of the opinion that a powerful signal on Fire Island would only be of service with northerly winds, when we generally have clear weather, and could not be heard distinctly with easterly, south-east, southwest, or southerly winds when fog prevails.

Whistling buoy.—The present whistling buoy is not only inefficient and useless, but might be a source of danger to the propellers. Instead, I would suggest establishing a light-vessel where the whistling buoy now is, with a powerful light, fog signal, and communication with the shore, as in clear weather I have frequently gone into Fire Island within 3 miles and not been reported from there.

The great advantage of a light-ship in this position in foggy weather would be apparent to all navigating these waters.

Hoping your endeavor to obtain this necessary reform may be successful,

I am, yours, very truly,

JNO. G. PAMEROW, *Commander.*

H. M. KERSEY, Esq.,

New York.

ANCHOR LINE, 7 BOWLING GREEN,
New York, July 17, 1895.

DEAR SIR: We duly received your favor of the 15th instant, and in reply would state that we, with most of our captains, agree with you that a fog siren, gun, or detonating signal (the former preferable) at Fire Island would be a great improvement on the present whistling buoy now in vogue, which is seldom heard during high winds by the officers of steamers, and is somewhat a source of danger in foggy weather.

Wishing you success in your proposed project, we are,

Yours, truly,

HENDERSON BROS.

H. MAITLAND KERSEY, Esq.,

29 Broadway, City.

HAMBURG-AMERICAN LINE, 37 BROADWAY,
New York, July 17, 1895.

DEAR MR. KERSEY: I have seen several of our captains about the whistling buoy at Fire Island, and they not only consider the buoy comparatively useless, but think that it might at any time be a source of injury to the screws.

A fog siren would be an improvement, but it would be much more desirable to have a light ship at that important point.

In this connection, I would suggest some joint action on the part of representatives of steamship lines to obtain better service from the signal station of the Western Union Telegraph Company at Fire Island. I have time and again received complaints from our captains that they were not reported, although they made their signals and the weather was clear, and they were near enough to distinguish the houses on land.

Yours, very truly,
H. MAITLAND KERSEY, Esq.,
29 Broadway, City.

EMIL L. BOAS.

NEW YORK, August, 1895.

The LIGHT-HOUSE BOARD,
Washington, D. C.

GENTLEMEN: We the undersigned shipowners, agents, masters, pilots, and underwriters respectfully petition your honorable Board to establish a light-ship with a powerful fog signal, and with telephone connection to the mainland in place of the whistling buoy some 6 miles off Fire Island, for the following reasons:

All incoming transatlantic steamers and vessels at present lay their course from, say, 10 to 15 miles south of Nantucket light-ship to Sandy Hook light-ship, passing Fire Island as close as possible in clear weather in order that they may be reported from the signal station at that point.

In thick or foggy weather, or during the prevalence of snowstorms, when Fire Island light is not visible, commanders have to rely entirely upon the soundings, which, however, in the neighborhood of the entrance to the port of New York merely indicate the proximity of the land, but do not indicate the ship's location. Any vessel having overrun her distance may thus approach the dangerous Jersey coast, where soundings are unreliable.

The whistling buoy now off Fire Island is not only of no value but is a positive source of danger to ships' propellers. It can be seen only for a limited distance—say, about 2 miles in clear weather—by a careful observer. In foggy weather or at night its tone is seldom or never heard.

At present there is neither a fog siren nor detonating signals at Fire Island Light-House; but even these would not be heard distinctly with easterly, southeasterly, southwesterly, or southerly winds when fog prevails.

A light-ship in this locality, as above suggested, would fully meet the requirements of commerce, both in clear and thick weather.

Incoming transatlantic vessels endeavor to keep, approximately at least, in 20 fathom soundings off the Long Island shore, and would therefore be certain to come within the radius of the fog siren on a light-ship placed, say, within 6 or 8 miles of the Fire Island Light-House, and could then shape their course for Sandy Hook light-ship or the entrance to the port with absolute certainty.

The increased security guaranteed by a light-ship placed in this location will be realized when it is remembered that the value of the regular transatlantic steamers passing this point bound for New York every week is about \$13,000,000, in addition to which may be mentioned the enormous traffic of transient steamers and sailing vessels.

The number of incoming passengers passing Fire Island from the north of Europe every year averages 450,000, and the value of cargoes carried by these steamers represents annually many millions of dollars.

Your petitioners would further pray your honorable Board that the Nantucket South Shoal light-ship be moved from 4 to 5 miles south so that it may be within sight distance of the present inward steamship track, most vessels now passing some 10 miles south of the present light-ship, and that the lights thereon be considerably increased in power.

They also pray that this light-ship be connected by telephone with Nantucket, enabling all incoming vessels to be reported in New York at least seven hours before they could be telegraphed from Fire Island. This improvement would be welcomed not only by the business community of New York and all the business community of the country dependent upon New York for their mails and merchandise, but also by all citizens throughout the country whose friends or relatives or who themselves may at some time be passengers on incoming steamers.

An early report from Nantucket would considerably enhance a quick delivery of the mails and a quick discharge of passengers and their baggage, the present Fire Island service being most inadequate.

Vessels disabled or in distress approaching the land would be reported perhaps several days earlier than is now possible, thus relieving anxiety and distress and further affording means of saving life and property and possibly of averting disaster.

Your petitioners most fully appreciate the unremitting attention given by your honorable Board to the improvement of the aids to the approaches to our harbors, and confidently believe that their recommendations will meet with your favorable consideration, especially in view of the fact that the large expense which it is understood is contemplated on the erection of more powerful electric lights at Fire Island light-house could be dispensed with if the proposed light-ship is established.

Signed by the agents of the following-named companies and many others: Cunard Steamship Company, North German Lloyd Steamship Company, French Line, White Star Line, Netherlands-American Steam Navigation Company, Hamburg-American Line, Mediterranean and New York Steamship Company, Limited, Navigazione Generale Italiana, Thingvalla Line, Bordeaux Line, Union direct Hamburg Line, National Line of Marseilles, Shire Line of London, International Navigation Company, Pacific Mail Steamship Company, Bristol City Line, Atlas Mail Line of Steamers, Prince Line, Stag Line, National Line, The Clyde Steamship Company, Central American Line, Wilson Line, Merchants' Regular Line, Lamport Holt Line, Union Clan Line, Sumner Line, Trinidad Line, Columbian Line, Panama Railroad Company, Quebec Steamship Companies, Bermuda and West India Lines, Spanish Line of Steamers, Manhasset Line, The Norton Line, The American and African Steamship Line, The Red D Line of Steamships, Fabre Line, New York and Cuba Mail Steamship Company, The Cromwell Steamship Company, Booth Steamship Company, Allan State Line, New Jersey Board of Pilotage, Oriental Line, Atlantic Transport Line, Royal Dutch West India Mail, New York and Porto Rico Steamship Company, Munton Steamship Line, Coast Towing, Transportation, and Wrecking, Mallory Lines.

NORTH GERMAN LLOYD STEAMSHIP COMPANY,

New York, September 9, 1895.

DEAR SIR: Inclosed I beg leave to hand you two further letters from our commanders in support of the petition to place a light-vessel off Fire Island, and of the connection by telephone of South Shoal light-ship with the land.

I trust they may still be of service, and shall be obliged if you will inform me what action has been taken, that I may advise Mr. Schwab on his return.

Yours, very truly,

HERMANN WINTER, *Secretary.*

H. MAITLAND KERSEY, Esq.,
29 Broadway, City.

DAMPFER WILLEHAD,
Hoboken, den September, 1895.

DEAR SIR: I am very glad to say in reply to your inquiry that I heartily favor the establishment of a light-vessel off Fire Island, and should consider a light-vessel in that location to be of the greatest value to navigation.

I also favor the connection of Nantucket South Shoal light-vessel with the land by telephone, for the reason that this would enable vessels to be reported much earlier than now, besides giving disabled vessels a chance to obtain assistance.

Yours, very respectfully,

A. RICHTER,
Commander North German Lloyd S. S. Willehad.

GUSTAV H. SCHWAB, Esq.,
2 Bowling Green, New York.

NEW YORK, *September —, 1895.*

DEAR SIR: In answer to your question, I beg leave to say that I should strongly recommend the placing of a light-vessel off Fire Island, and am sure that such action would receive the praise of all those interested in navigation.

I am also convinced that the establishment of connection between Nantucket South Shoal light-vessel and the land by telephone would be very much appreciated.

Yours, very respectfully,

H. HELLMERS,
Commander North German Lloyd S. S. Lahn.

GUSTAV H. SCHWAB, Esq.,
2 Bowling Green, New York.

WASHINGTON, D. C., *July 23, 1895.*

SIR: On behalf of the transatlantic steamship lines, I very respectfully beg to submit a letter sent to me by Mr. Gustav H. Schwab concerning approaches to Fire Island, and bespeak for the same the kind consideration of your honorable Board.

I have the honor to be, yours, very respectfully,

GEO. O. GLAVIS.

Rear-Admiral JOHN G. WALKER,
Chairman of the Light-House Board.

NORTH GERMAN LLOYD STEAMSHIP COMPANY,
New York, July 22, 1895.

DEAR SIR: Referring to our recent conversation on the subject of improvements in the approach to Fire Island, I beg leave to say that all of the first-class transatlantic steamship lines are of the unanimous opinion that the establishment of a light-ship off Fire Island, say, 8 or 10 miles south of the Fire Island Light, would be by far the best provision that could be made toward improving the approaches to New York Harbor.

The location of the light-ship in that spot, about where the whistling buoy now is, would afford the greatest assistance to navigation and enable transatlantic steamers to get good bearings off Fire Island. It is the aim of all incoming transatlantic steamers, as far as I can find, to make Fire Island, and in the absence of a light-vessel there, the only mark in foggy or thick weather is the automatic whistling buoy, which, of course, being a small object and the sound of which not being far-reaching, it is a very difficult matter to pick up.

It may be urged that a powerful fog siren or detonating signals on the land near the light-house on Fire Island would serve the purpose, but this I must deny, on the authority of the commanders of our steamers. In a southerly or easterly gale, or in heavy weather, the sound of a fog siren or of detonating signals is so uncertain and the extent to which such signals could be heard so problematical, that no captain would feel justified in depending upon such signals on approaching Fire Island. The only safe and reliable marking for such approach would be a light-ship at or near the spot now occupied by the automatic whistling buoy, about 8 miles south of Fire Island Light, equipped with a fog siren or other signaling apparatus.

The establishment of such an aid to navigation would be most gratefully acknowledged by the navigation interest of this port, and would redound to the great credit of the light-house authorities of this country, whose desire to render as efficient assistance as possible to shipping is fully appreciated and highly valued by all those engaged in maritime affairs.

I should like to ask you to kindly place this matter before the proper authorities, and advise me what can be done.

Yours, very truly,

GUSTAV H. SCHWAB.

Dr. GEORGE O. GLAVIS,
Post Building, Washington, D. C.

29 BROADWAY, *New York, October 10, 1895.*

GENTLEMEN: I have to acknowledge the receipt of your favor of the 8th instant, advising me that my letter of the 30th of August, 1895, inclosing a petition signed by various steamship lines running into the port of New York, pilot commissioners, underwriters, etc., recommending that a light-ship be established at Fire Island, has been received and advising me that the Board at its session on the 7th of October has approved of the establishment of such light-ship, and that it was ordered that Congress be requested to make an appropriation for the amount necessary.

I have communicated this information to the various steamship lines interested, to the Maritime Exchange, and other signatories of the petition.

I have to thank you for your kind consideration of the request, and am, gentlemen,

Your obedient servant,

H. MAITLAND KERSEY.

The LIGHT-HOUSE BOARD,
Treasury Department, Washington, D. C.

WASHINGTON, D. C., *January 31, 1896.*

My DEAR ADMIRAL WALKER: We are all greatly obliged for your prompt action in getting established a light-ship off Fire Island, and I have been requested to inclose herewith a petition of the New York Produce Exchange and to ask you to

transmit the same to Congress, since we consider this the more proper way instead of petitioning Congress direct. Two other petitions will follow, one from the Maritime Association and the other from the Maritime Insurance Company and Underwriters, respectively.

Believe me, my dear Admiral,
Yours, very truly,

GEO. O. GLAVIS.

NEW YORK, *January 29, 1896.*

SIR: The undersigned, members of the New York Produce Exchange, recognizing the importance to the interests of this port of the establishment of a light-vessel off Fire Island, equipped with fog-signaling apparatus, cordially indorse the action of your honorable Board in providing this additional measure of protection to life and property, and express the earnest hope that Congress will furnish the necessary means for the construction and maintenance of the light-vessel planned by your honorable Board.

Yours, very respectfully,

HENRY D. McCORD, *President Produce Exchange.*
S. F. EUGS, *401 Produce Exchange.*
WM. W. ROSSITA, *9 Produce Exchange.*
And 87 others.

Rear-Admiral J. G. WALKER,
President Light-House Board, Treasury Department, Washington, D. C.

WASHINGTON, D. C., *February 1, 1896.*

DEAR SIR: Referring to my respects of yesterday, in which I had the honor to forward to you a petition signed by members of the Produce Exchange with reference to the establishment of a light-ship off Fire Island, I now beg to inclose a letter of the same character signed by members of the Maritime Association, which I would ask you to transmit to Congress, if this meets your views.

Yours, very truly,

GEO. O. GLAVIS.

Rear-Admiral JOHN G. WALKER,
Chairman of Light-House Board.

THE MARITIME ASSOCIATION OF THE PORT OF NEW YORK,
New York, January 28, 1896.

Rear-Admiral JOHN G. WALKER, U. S. N.,
President Light-House Board, Treasury Department, Washington, D. C.

SIR: The undersigned, representing the maritime interests of the port of New York, heartily approve of the action taken by your honorable Board in requesting Congress to appropriate the necessary money for the establishment of a light-ship with a powerful fog signal off Fire Island.

Steamships and sailing craft of all descriptions approaching the port of New York from the eastward in foggy or heavy weather are now unable to determine their position until they reach the Sandy Hook light-ship. A light-ship stationed at some distance off Fire Island, now the eastern limit of pilot cruising ground, would enable all vessels to accurately take their bearings and shape their course for the entrance to New York Harbor. The improvement that your honorable Board now proposes will therefore prove a most conspicuous benefit to commerce and navigation and a sure protection to countless lives and many millions of property.

Vernon C. Brown, president Maritime Exchange; Hugh Kelly, vice-president Maritime Exchange; L. P. Romaine, treasurer Maritime Exchange; W. Michaelis, secretary Maritime Exchange; ten directors Maritime Exchange; International Navigation Company; North German Lloyd S. S. Co., by Oelrichs, agents; Cie. Gle. Transatlantique, A. Forget, agent; The Clyde Steamship Co., by W. P. Clyde & Co., general agents; Anchor Line, by Henderson Bros., general agents; Cunard Steamship Co., by Vernon H. Brown; White Star Line, H. Maitland Kersey, agent; F. W. F. Hurst, managing agent National Line Steamers; American and African S. S. Line, Norton & Sons, agents; W. R. Grace & Co; Hamburg-American Line, E. L. Boas, manager; Red Cross Line, New York and Central American Line, by Bowring & Archibald, agents, and 29 others.

MEDALS OF HONOR.

FEBRUARY 14, 1896.—Referred to the House Calendar and ordered to be printed.

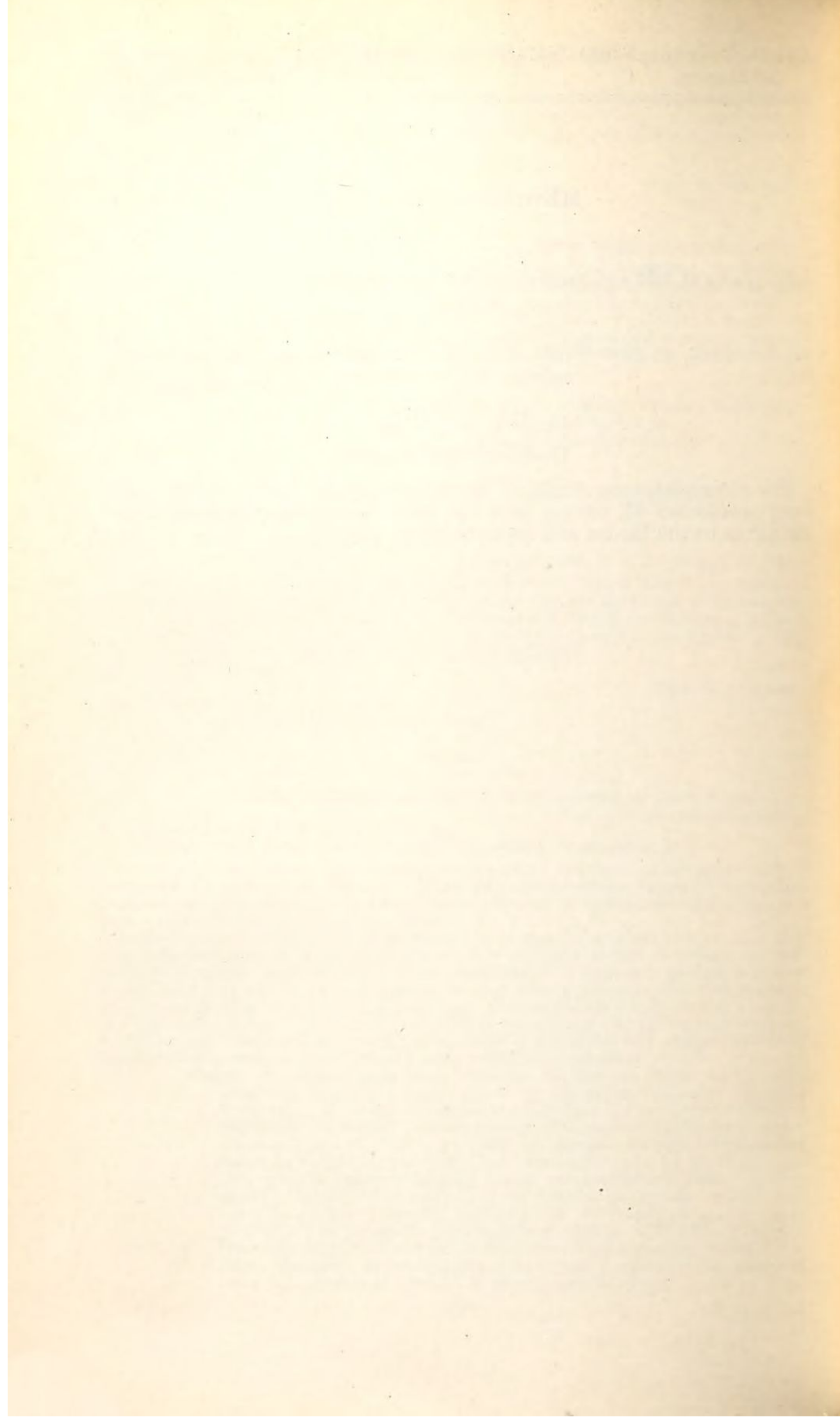
Mr. CURTIS, of New York, from the Committee on Military Affairs,
submitted the following

REPORT:

[To accompany H. Res. 85.]

The Committee on Military Affairs, to whom was referred House joint resolution 85, having had the same under consideration, report the same to the House and recommend its passage.

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LIEUT. COL. ALEXANDER STEWART WEBB.

FEBRUARY 14, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CURTIS, of New York, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 2263.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2263) to place Lieut. Col. Alexander Stewart Webb on the retired list of the United States Army, having had the same under consideration, beg leave to submit the following report:

General Webb was during the war one of the most distinguished officers of the Army. The records of the War Department show that he was a cadet at the United States Military Academy from July 1, 1851, to July 1, 1855, when he was graduated and appointed brevet second lieutenant, Fourth Artillery, July 1, 1855; second lieutenant, Second Artillery, October 20, 1855; first lieutenant, April 28, 1861; captain, Eleventh Infantry, May 14, 1861; major, First Rhode Island Light Artillery, September 14, 1861; lieutenant-colonel inspector general (by assignment), August 20, 1862; brigadier-general of volunteers, June 23, 1863; honorably mustered out of volunteer service, January 15, 1866; lieutenant-colonel Forty-fourth Infantry, an invalid regiment; July 28, 1866; transferred to Fifth Infantry, March 15, 1869; unassigned, March 24, 1869.

He received the brevets of major, July 3, 1863, for gallant and meritorious services at the battle of Gettysburg, Pa.; lieutenant-colonel, October 11, 1863, for gallant and meritorious services at the battle of Bristoe Station, Va.; colonel, May 12, 1864, for gallant and meritorious services at the battle of Spottsylvania, Va.; brigadier-general, March 13, 1865, for gallant and meritorious services in the campaign terminating with the surrender of the insurgent army under Gen. R. E. Lee; major-general, March 13, 1865, for gallant and meritorious services during the war, and major-general of volunteers, August 1, 1864, for gallant and distinguished conduct at the battles of Gettysburg, Pa., Bristoe Station, the Wilderness, and Spottsylvania, Va.

He was awarded a medal of honor "for distinguished personal gallantry in the battle of Gettysburg."

SERVICE.

He was on duty at the Military Academy, July 5 to August 28, 1855.

He joined his regiment January 9, 1856, and served with it in Florida in operations against hostile Seminole Indians to November 19, 1856; at Fort Independence, Mass., to July 3, 1857; absent sick to September 20, 1857; with company at Fort Snelling, Minn., to October 31, 1857.

On duty as assistant professor of mathematics at the United States Military Academy November 10, 1857, to January 7, 1861, and on duty with the West Point Light Battery to April 5, 1861; with battery at Fort Pickens, Fla., to July 4, 1861; in the field in Virginia to August 12, 1861; assistant to chief of artillery, Army of the Potomac, to August 20, 1862; inspector-general and chief of staff of Fifth Army Corps to November, 1862; inspector of artillery, camp of instruction, Camp Barry, D. C., to January 18, 1863; inspector-general Fifth Army Corps to June 26, 1863; commanding Second Brigade, Second Division, Second Corps (temporarily commanding Second Division, Second Corps, August 16 to September 5, 1863), to October 7, 1863; commanding Second Division, Second Corps, to April 5, 1864, and First Brigade, Second Division, Second Corps, until severely wounded at the battle of Spottsylvania, Va., May 12, 1864; absent sick on account of wounds to June 21, 1864; superintendent of recruiting for Second Army Corps and on court-martial duty in New York City, to January, 1865; chief of staff to General Meade, headquarters Army of the Potomac, January 11 to June 28, 1865; acting inspector-general, Division of the Atlantic, July 1, 1865, to February 21, 1866, and on leave of absence to June 13, 1866.

Principal assistant professor of geography, history, and ethics at the Military Academy, July 1, 1866, to October 1, 1868.

He joined his regiment October 24, 1868, and commanded it at Washington, D. C., to March 30, 1869.

At Richmond, Va., commanding First Military District, April 2 to 30, 1869, after which latter date he performed no duty, having been, at his own request, left without assignment in the consolidation of infantry regiments, owing to the fact that he was physically incapacitated for service on the plains with an active regiment.

As his application for retirement, in April, 1870, was not granted, he requested, on November 25, 1870, to be discharged the military service under the provisions of section 3, act July 15, 1870, to take effect December 31, 1870, and was honorably discharged accordingly.

During his services he participated in the following battles, actions, etc.:

Siege of Yorktown, April and May, 1862; Mechanicsville, May 27, 1862; Hanover C. H., May 27, 1862; Gaines Mill, June 27, 1862; Malvern Hill, July 1, 1862; Antietam, September 17, 1862; Shepherdstown, September 19, 1862; Snicker's Gap, November 14, 1862; Chancellorsville, May 2 to 5, 1863; Gettysburg, July 1 to 3, 1863; Bristoe Station, October 14, 1863; Mine Run campaign, November 26 to December 2, 1863; Morton's Ford, February 6, 1864; Wilderness, May 5 and 6, 1864; Spottsylvania, May 8 to 12, 1864; siege of Petersburg, January to April, 1865; Hatcher's Run, February 5 and 6, 1865.

General Webb was wounded at Gettysburg July 3, 1863, in front of the Seventy-second Pennsylvania Volunteers, half way between that regiment and the low stone wall over which the Confederate General Armistead had stepped, followed by about fifty of the bravest of his men. General Webb and General Armistead were both West Point graduates, and both were then and there shot between the lines of troops, the distance between them along the line parallel to the front of the troops being exactly 33 paces. The positions of the two generals have been marked several times by those who were eyewitnesses.

Before moving down to the front to meet General Armistead, General Webb had been with the color guard of the Seventy-second Pennsylvania Volunteers. Every man of that color guard was wounded, the color bearer, Sergeant Finnessy, and one other were killed and four out of

nine received two wounds each. When the privates of the Seventy-second Pennsylvania Volunteers gave their testimony before the master who was investigating the claim of the regiment to place their monument at the stone wall, it was noticeable that in every company from the color guard to the left of the regiment witnesses swore to the fact that they saw General Webb in front of their company some 8 or 10 paces, and this was correct, inasmuch as General Webb passed across their front between the lines, to direct the fire of the right of the Sixty-ninth Pennsylvania upon those of the rebels who were moving with Armistead from the stone wall.

Any other government on the face of the earth would have rewarded General Webb for that necessary but signal act. It kept the men of the Seventy-second up to their work, and it held his men in their places until more than one-half were killed or wounded. It is not to be wondered at that General Meade, in his letter presenting a medal to General Webb, mentions this act of gallantry as not surpassed by any one general on that field.

The bullet which struck General Webb passed near the groin, cutting both legs, but the wound did not require that he should leave the field.

The committee have before them a plan of the battle, showing Webb's brigade in action at Gettysburg and the location where General Armistead, Confederate States army, was killed, and where General Webb, United States Army, was wounded.

Major Smart, surgeon United States Army, now stationed at the War Department, informs the committee that he saw Gen. Alexander S. Webb when he was severely wounded in the head at Spottsylvania, May 12, 1864. It is this wound in the head that has almost thoroughly incapacitated him. It has totally incapacitated him for all military duty.

General Webb is to-day president of the College of the City of New York, and from the result of his wounds is ill a great deal of the time and loses consciousness more or less. He has lost all of his money and is very poor.

Cullom's register of graduates of West Point devotes much space to General Webb's distinguished career, including what we have stated. To repeat this would add too much to the length of the report.

The committee incorporate the following letter from the War Department, which was sent to the Senate Committee on Military Affairs, in reply to their inquiry, a similar bill to this having been introduced into the Senate and referred to that committee:

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, January 8, 1896.

SIR: I have the honor to return herewith Senate bill No. 1106, providing for the reappointment in the Army and retirement, as lieutenant-colonel, of Alexander S. Webb, late lieutenant-colonel and brevet major-general, United States Army, which has been referred to the Department by the Senate Committee on Military Affairs, for information.

At the close of the war General Webb was transferred to the Forty-fourth Infantry, then known as an invalid regiment, composed of wounded and disabled officers and men. Upon the reduction of the Army in 1869, this regiment was consolidated with the Fifth Infantry, an active regiment. Many of the officers of this regiment were then retired. As General Webb was physically incapacitated for active service on the plains with the Fifth Infantry, he sought retirement. In this he was unsuccessful. He thereupon resigned, and has since been occupied in civil life.

Could the retiring board have foreseen the effects of the severe wound that he received, there can be no doubt that its verdict would have been that he was incapacitated for active service.

It is held that he was justly entitled to retirement at that time. Had he then been reported incapacitated for active duty he would have gone on the retired list with the rank and pay of brigadier-general, under the act of July 28, 1866, the actual rank he held and was exercising when wounded.

His appointment and retirement now as a lieutenant-colonel, the rank which he held when discharged from the army, is recommended as simple justice to a gallant and disabled officer, distinguished at Bristow, in receiving Pickett's charge at Gettysburg, at Spottsylvania, and in the last campaign of the late war. I inclose a summary of his military record.

Very respectfully,

GEO. D. RUGGLES,
Adjutant-General.

The SECRETARY OF WAR.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, December —, 1895.

Statement of the military service of Alexander S. Webb, late of the United States Army, compiled from the records of this office.

He was a cadet in the United States Military Academy July 1, 1851, to July 1, 1855, when he was graduated and appointed brevet second lieutenant, Fourth Artillery, July 1, 1855; second lieutenant, Second Artillery, October 20, 1855; first lieutenant, Second Artillery, April 28, 1861; captain, Eleventh Infantry, May 14, 1861; major, First Rhode Island Light Artillery, Sept. 14, 1861; lieutenant-colonel, adjutant, and inspector-general (by assignment), August 20, 1862; brigadier-general of volunteers, June 23, 1863; honorably mustered out of volunteer service January 15, 1866; lieutenant-colonel, Forty-fourth Infantry, July 28, 1866; transferred to Fifth Infantry, March 15, 1869; unassigned, March 24, 1869.

He received the brevets of major, July 3, 1863, for gallant and meritorious services at the battle of Gettysburg, Pa., lieutenant-colonel, October 11, 1863, for gallant and meritorious services at the battle of Bristow Station, Virginia; colonel, May 12, 1864, for gallant and meritorious services at the battle of Spottsylvania, Va.; brigadier-general, March 13, 1865, for gallant and meritorious services in the campaign terminating with the surrender of the insurgent army under Gen. R. E. Lee; major-general, March 13, 1865, for gallant and meritorious services during the war, and major-general of volunteers, August 1, 1864, for gallant and distinguished conduct at the battles of Gettysburg, Pa., Bristow Station, the Wilderness and Spottsylvania, Va.

He was awarded a medal of honor, "for distinguished personal gallantry in the battle of Gettysburg."

SERVICE.

He was on duty at the Military Academy, July 5 to August 28, 1855.

He joined his regiment January 9, 1856, and served with it in Florida, in operations against hostile Seminole Indians, to November 19, 1856; at Fort Independence, Mass., to July 3, 1857; absent sick to September 20, 1857; with company at Fort Snelling, Minn., to October 31, 1857.

On duty as assistant professor of mathematics at the United States Military Academy, November 10, 1857, to January 7, 1861, and on duty with the West Point Light Battery to April 5, 1861; with battery at Fort Pickens, Fla., to July 4, 1861; in the field in Virginia to August 12, 1861; assistant to chief of artillery Army of the Potomac to August 20, 1862; inspector-general and chief of staff of the Fifth Army Corps to November, 1862; inspector of artillery, camp of instruction, Camp Barry, D. C., to January 18, 1863; inspector-general Fifth Army Corps to June 26, 1863; commanding Second Brigade, Second Division, Second Corps (temporarily commanding Second Division, Second Corps, August 16 to September 5, 1863), to October 7, 1863; commanding Second Division, Second Corps, to April 5, 1864, and First Brigade, Second Division, Second Corps, until severely wounded at the battle of Spottsylvania, Va., May 12, 1864; absent sick on account of wounds to June 21, 1864; superintendent of recruiting for Second Army Corps and on court-martial duty in New York City to January, 1865; chief of staff to General Meade, headquarters Army of the Potomac, January 11 to June 28, 1865; acting inspector-general Division of the Atlantic, July 1, 1865, to February 21, 1866, and on leave of absence to June 13, 1866.

Principal assistant professor of geography, history, and ethics at the Military Academy, July 1, 1866, to October 21, 1868.

He joined his regiment October 24, 1868, and commanded it at Washington, D. C., to March 30, 1869.

At Richmond, Va., commanding first military district, April 2 to 20, 1869, after which latter date he performed no duty, having been at his own request left without assignment in the consolidation of infantry regiments.

On November 25, 1870, he requested to be discharged the military service under the provisions of section 3, act July 15, 1870, to take effect December 31, 1870, and was honorably discharged accordingly.

During his service he participated in the following battles, actions, etc.:

Siege of Yorktown, April and May, 1862; Mechanicsville, May 27, 1862; Hanover Court-House, May 27, 1862; Gaines Mill, June 27, 1862; Malvern Hill, July 1, 1862; Antietam, September 17, 1862; Shepherdstown, September 19, 1862; Snickers Gap, November 14, 1862; Chancellorsville, May 2 to 5, 1863; Gettysburg, July 1 to 3, 1863; Bristoe Station, October 14, 1863; Mine Run campaign, November 26 to December 2, 1863; Mortons Ford, February 6, 1864; Wilderness, May 5 to 6, 1864; Spottsylvania, May 8 to 12, 1864; siege of Petersburg, January to April, 1865; Hatchers Run, February 5 and 6, 1865.

GEO. D. RUGGLES, *Adjutant-General*.

General Webb's case is not that of an officer who voluntarily resigned from the Army. Owing to his severe wounds, application was made for his retirement, but, as has been shown by the statements and affidavits of eminent medical men and others, the board did not at that time, namely, 1870, appreciate the full extent of the disability caused by his wounds, and in addition, the serious effects of the wounds had not at that time become fully developed. These papers show that the "wound was of that nature that it would have required time and frequent medical inspections in order to determine what, if any, consequences arose from it." This the board was unable to give.

A member of the board, Colonel Gardner, also states:

I have since, from personal knowledge of your case, felt that unintentionally we had decided directly the reverse from what we would have, had your case been better known.

A member also states:

I have reason to believe that the distinguished medical members of that board have entirely revised and changed their opinion in your case. Our finding did you great injustice. You were, by law, entitled to be placed on the retired list of the Army.

Col. John M. Cuyler, of the medical department, a member of the board, also says:

I am quite willing and ready to unite with the other members of the board and indorse favorably an application from you for a rehearing.

Attention is also called to the statements or affidavits of Surg. Gen. John Moore, Surg. Gen. William A. Hammond, Dr. W. Stratford, Dr. Benjamin Howard, and Dr. T. Gaillard Thomas.

The statements referred to are as follows:

LOUISVILLE, KY., *December 13, 1872.*

Bvt. Maj. Gen. ALEXANDER S. WEBB,
Late Lieutenant-Colonel, United States Army.

SIR: I have attentively considered your recent inquiry as to the action in your case by the board to retire disabled officers, which was convened in Army Buildings, New York City, in 1870, and of which Major-General McDowell was the president and myself the recorder.

You came before that board under an order from the Honorable Secretary of War and were examined physically by Surgeons Cuyler and Moore, the medical members, to ascertain whether you were incapacitated for active field service. The wound on your temple, received in battle while in the Army of the Potomac, was and still is apparent to anyone, and there was no question whatever but that you did receive that wound in the manner and while on the duty as alleged.

The only question was, whether its effects, at the time you appeared before the board, were such as then to incapacitate you for active field service.

You swore that they were such, but unfortunately the medical members of the board could not say the same, solely because there was at that time no outward appearance of physical incapacity either in your manner, conversation, gestures, or general appearance. Your wound was of that nature that it would have required time and frequent medical inspections in order to determine what, if any, consequences arose from it.

This the board was unable to give, for the reason that the period was rapidly approaching when a large number of officers must be disbanded, and there were

before the board so many applications for retirement, which had been ordered to be examined, that I had to work almost incessantly night and day to conclude them.

The nonmedical members, deferring to the professional knowledge of the eminent medical officers, felt constrained to conclude you were able-bodied.

I have since, from personal knowledge of your case, felt that unintentionally we had decided directly the reverse from what we would have, had your case been better known, and I have so expressed myself to Army friends.

In my nonprofessional judgment you are incapacitated for active field service from the wound in your head, received in battle, in the line of your duty, and could the medical members of our late board have had the same opportunities for observation, I am sure they would have formed precisely the same conclusion, and recommended your retirement with the grade and pay to which you would by law have been and still be entitled.

I am, sir, very respectfully, your obedient servant,

ASA BIRD GARDNER,
First Lieutenant U. S. Artillery, Acting Judge-Advocate.

JUDGE-ADVOCATE'S OFFICE,
Governors Island, June 3, 1881.

Gen. ALEX. S. WEBB,
17 Lexington avenue, New York City.

MY DEAR GENERAL: I am in receipt of your favor of yesterday and hasten to reply, with permission for you to use this as an official communication.

I was the recorder of the army retiring board presided over by Major-General McDowell, which failed to find sufficient evidence from your wounds of disqualification for active field service.

This was due to the fact that the surgeons who were members of the board could then only make a superficial examination and express an opinion thereon, by which, of course, the other members were guided.

We were at the time pressed with a large number of cases urging retirement, because the Army was being reduced by twenty regiments, and the occasion did not admit, from this circumstance, that time should be taken to put you under the medical inspection of the medical members of the board, which would have required weeks.

You know I have since often lamented the result, for if there has ever been an officer entitled to be retired on his wounds received in action you are that man.

I have reason to believe that the distinguished medical members of that board have entirely revised and changed their opinion in your case. Our finding did you great injustice. You were by law entitled to be placed on the retired list of the Army.

From the statement here made you will perceive that this erroneous finding was unavoidable under the circumstances.

We all respected and esteemed you as a gallant officer who had done his country good and faithful service, and at the same time valued your personal friendship.

When you were not retired, as you knew you were not qualified for active field service, your only recourse, as a man of honor, was to resign.

You should be restored to the retired list of the Army, where you belong, and where there is incontestable evidence you are entitled to be.

Now adieu. I hope you will succeed in being restored to the service as you desire.

I am, dear General, very truly, yours,

ASA BIRD GARDNER,
Judge-Advocate.

I certify that the above is a correct and true copy of the original letter of Asa Bird Gardner, J. A.

HENRY MAYELL,
Notary Public, New York County.

OFFICE OF ATTENDING SURGEON,
HEADQUARTERS DEPARTMENT OF THE EAST,
New York, December 9, 1872.

I have been requested by some of the friends of Gen. A. S. Webb to state whether, in my opinion, he is either physically or mentally affected by the bullet wound in the head which he received in the summer of 1864.

I have been intimately acquainted with General Webb from his first entrance into the Army, and can say, without hesitation, that I believe he is in many respects greatly changed from the man he was before he was wounded. The long-continued mental and physical labor that he was capable of enduring without fatigue in 1862-63 he is now utterly unable to perform. Two or three hours of mental work, which demands unusual concentration or energy, often prostrates him to such an extent that he is on the verge of fainting, the heart beat being scarcely perceptible, surface cold, and an almost entire absence of perception of surrounding objects. At other times the effect of continuous work at his present duties is great mental depression, or a state of mind bordering on hysteria.

He is in a condition in which all continuous mental labor is detrimental to his health, and in which he is every day liable to break down so completely as to be unable again to resume any responsible position; and this condition I can attribute to no cause but the wound in his head. It is true it was not of a nature to lead one to expect such results; but as it is known that important changes of the brain—organic or functional—have followed apparently unimportant blows on the head, often not appearing for months or years after the injury, there seems to me no reasonable doubt that his present and yearly increasing incapacity for mental labor, or the assumption of any considerable responsibility, is due to the wound of the head which he received in one of the battles of the campaign of 1864.

JNO. MOORE,
Surgeon, United States Army.

SAN ANTONIO, TEX., *April 12, 1878.*

GEN. A. S. WEBB,
15 Lexington Avenue, New York:

It is my opinion your wound should have placed you on retired list when you were before board. Send me copy of my former certificate.

JNO. MOORE,
Surgeon, United States Army.

GOVERNORS ISLAND, NEW YORK HARBOR,
June 6, 1881.

MY DEAR GENERAL: You must not forget that the board before which you appeared was necessarily governed by the light thrown upon your case. * * *

It would not be proper for me to act alone in the matter, but I am quite willing and ready to unite with the other members of the board, and indorse favorably an application from you for a rehearing.

Yours, very truly,
GEN. ALEX. S. WEBB,
*President of the College of the City of New York,
Lexington Avenue, New York City.*

JNO. M. CUYLER.

296 FIFTH AVENUE, NEW YORK,
December 11, 1872.

I have attended Gen. A. S. Webb as his family physician since 1866. During this time I have been repeatedly called upon to advise him on account of attacks of mental depression, attended by apparent cerebral exhaustion and very evident feebleness of the heart's action.

I am unwilling to assert with positiveness that these symptoms were due to the bullet wound received by him in 1864, but I do not hesitate to state that my belief is that they have this origin. It is certain that they must arise from some decided physical cause, and I can discover none other, after careful examination, than the wound already alluded to.

T. GAILLARD THOMAS, M. D.

134 WEST THIRTY-FOURTH STREET, NEW YORK,
December 11, 1872.

I saw Gen. A. S. Webb immediately after he received a gunshot wound of the skull at the battle of Spottsylvania, May 12, 1864, and have recently met Dr. T. G. Thomas in consultation regarding his case.

At the time he was wounded I expressed the opinion that if the result was not immediately serious, grave cerebral symptoms would probably arise from it, although, perhaps at a very distant date.

The symptoms recently described to me by Dr. Thomas and by General Webb as having several times occurred in his case are such as would legitimately follow such a wound, and, in my opinion, consequences of the utmost gravity, upon a sufficient exciting cause, may at any time supervene as the result of the gunshot injury above referred to.

BENJAMIN HOWARD, M. D.

43 WEST FIFTY-FOURTH STREET, NEW YORK,
April 19, 1878.

MY DEAR SIR: I hope I do not pass the limits of propriety in asking if there is any prospect of a reconsideration of the action of the Military Committee in the case of Gen. Alex. S. Webb, of this city, and in expressing the hope that you will give your influence in his behalf.

I have been acquainted with General Webb since he was a cadet at West Point, as I was one of the medical officers of the Academy, now nearly twenty-five years ago. I know him to be a gentleman above reproach, and to have been one of the most gallant and thorough soldiers of the late war. I have examined his wound, and I assure you on my reputation as a physician and my honor as a man that it is of such a character as necessarily to produce decided abnormal cerebral symptoms.

You will understand that, situated as General Webb is, he naturally shrinks from bringing his symptoms prominently before the world; and yet they are of such a character as to be likely at any moment to incapacitate him from duty of any kind. He is not the only one within my knowledge occupying prominent and responsible positions who are, as it were, standing on the brink of a volcano, knowing their danger, and yet appearing to the world as though nothing was the matter. They *must* work and be at apparent ease. Their symptoms are hidden from all, even at times from their own families.

My own experience of your sense of justice is such as to convince me that you will, if possible, look into his case, with the aid of such undoubted evidence of his condition as he can so readily adduce.

Yours, sincerely,

WM. A. HAMMOND.

NEW YORK, November 14, 1877.

STATE OF NEW YORK,

City and County of New York, ss:

Dr. William Stratford, being duly sworn, hereby testifies that he is a physician in the city of New York, residing at No. 103 East Tenth street, and instructor of anatomy in the College of the City of New York; that he has served continuously with Gen. Alexander S. Webb since 1869; that he has known him to suffer from the effects of a wound from a rifle ball, constantly and repeatedly, and in his presence, since 1869; that he has known the said Alexander S. Webb to repeatedly declare that he was incapacitated by said wound from active service of the Army of the United States; that he left said Army of the United States on account of said wound, and said incapacity resulting therefrom; and that he resigned only after he had presented himself before a retiring board, claiming to be incapacitated from active service by reason of wounds received in battle; that he declared that he resigned only when it became necessary by reason of the refusal of said retiring board to recommend him to be placed upon the retired list of the United States Army.

W. STRATFORD, M. D.

Sworn before me this 14th day of November, 1877.

JAS. E. MORRISON,
Notary Public, New York County.

All of the above statements show that great injustice was done General Webb when he sought to be retired, and this injustice can be only partially rectified by, at this late day, placing him on the retired list.

The committee therefore report back H. R. 2263, and recommend that it do pass.

ALEXANDER STEWART WEBB.

FEBRUARY 15, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HULL, from the Committee on Military Affairs, submitted the following as the

VIEWS OF THE MINORITY:

[To accompany H. R. 2263.]

The minority of the Committee on Military Affairs have fully considered the bill (H. R. 2263) to place Alexander Stewart Webb on the retired list of the Regular Army with the rank of lieutenant-colonel, and recommend that the bill do not pass.

The majority of your committee set out at length the history of service rendered by Alexander Stewart Webb, and the minority cordially indorse all that is said in commendation of General Webb's gallant service. He was educated by the Government, and rendered meritorious service from 1855 to 1869. War Records say: "On November 25, 1870, he requested to be discharged the military service under the provisions of section 3, act of July 15, 1870, to take effect December 31, 1870, and was honorably discharged accordingly." He voluntarily surrendered his commission as an officer of the Regular Army. Section 3 of the act of July 15, 1870, provides—

That the President be, and he is hereby, authorized, at his discretion, honorably to discharge from the service of the United States officers of the Army who may apply therefor on or before the first day of January next; and such officers so discharged under the provisions of this act shall be entitled to receive, in addition to the pay and allowances due them at the date of their discharge, one year's pay and allowances.

General Webb received the full one year's extra pay. Before he tendered his resignation he was elected president of the City College of the city of New York. The position carried with it a salary of \$7,500 a year, together with a home free of rent, making his salary equal to at least \$9,000 a year.

General Webb has held this office for more than a quarter of a century. It is true he applied for retirement before sending in his resignation, but the board, composed of Regular Army officers, his comrades and associates, refused him retirement and ordered him to rejoin his regiment. The minority of your committee are constrained to believe that if General Webb had not been elected to and accepted the position of president of the college he would have obeyed the order of the board. As a good soldier, educated at the expense of the Government, he should have obeyed the order. If true, as now claimed, that the board erred in not retiring General Webb, a very short time in active service would have demonstrated this, and certainly his associates in the Army would have done justice by retiring him. We believe the fact

that General Webb has been at the head of a great institution of learning for more than a quarter of a century vindicates the judgment of the retiring board.

There were more than five hundred officers retired under the same laws General Webb took advantage of. Each one of them has the same right to ask Congress to now place him on the retired list. A large number of these officers were really forced out of the service by the reduction of twenty regiments. The larger part of them are poor men and have battled for the bare necessities of life since leaving the Army. Many of them have applied to Congress year after year for restoration and retirement, and asked in vain. To refuse these gallant men, most of them volunteer officers who were commissioned in the Regular Army at the close of the war as a recognition of gallant conduct on the field of battle, and grant this favor to General Webb is so manifestly unjust that the minority of your committee can not consent to it. We ask the Congress to consider the enormous expense which must result from such legislation. To carry it out to its legitimate conclusion would make the retired list of the Army cost the people more each year than the active list now costs. General Webb has received since his resignation over \$200,000 in salary, and if we add allowance in the way of house rent in New York City, even this amount will be largely increased. Certainly the plea of poverty can not be set up in this case and denied in the hundreds of other cases where the struggle for life has taxed to the uttermost the officers thrown out of the Army by the reorganization act of 1870.

J. A. T. HULL.
JOHN C. TARSNEY.
B. F. MARSH.



REVENUE-CUTTER SERVICE.

FEBRUARY 14, 1896.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. BENNETT, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. R. 6120.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 3621) entitled "A bill to promote the efficiency of the Revenue-Cutter Service," having considered the same, submit the following report:

That said bill was prepared and presented in harmony and accordance with the recommendations contained in the last Annual Report of the Secretary of the Treasury in respect to the Revenue-Cutter Service, and is identical with Senate bill 1461 of the present session with a similar title introduced by Senator Frye.

Your committee referred the said House bill to the Secretary of the Treasury for his consideration and such recommendation as he might deem proper to make in respect to it, and in reply have received the following communication:

TREASURY DEPARTMENT, *January 20, 1896.*

SIR: I have the honor to acknowledge the receipt of your favor of the 14th instant, transmitting a copy of a bill (H. R. 3621) entitled "A bill to promote the efficiency of the Revenue-Cutter Service," and asking for such suggestions or recommendations as I may deem proper.

In response, I have the honor to suggest that the bill be amended by striking out all of the first section after line 9 and inserting the following:

"That the President of the United States is hereby authorized to convene from time to time, at his discretion, boards composed of three medical officers of either the Marine-Hospital Service, the naval or military establishments, for the purpose of examining and reporting upon all officers of the Revenue-Cutter Service of the United States, who, through no vicious habits of their own, have become or hereafter may become incapacitated by reason of the infirmities of age or physical or mental disability to perform the duties of their respective offices. And all officers who may be reported by any such board to be permanently incapacitated shall be placed on a retired waiting orders list out of the line of promotion with three-fourths of the duty pay of their respective grades, and the vacancies thereby created in the active list of officers of the Revenue-Cutter Service shall be filled in the order of seniority: *Provided*, That no such promotions shall be made until the professional qualifications of the candidate shall have been determined by written examination before a board of officers of the Revenue-Cutter Service, and his physical qualifications shall have been favorably determined by a board of medical officers, and such boards shall be convened by the Secretary of the Treasury whenever the exigencies of the Service require such action: *Provided further*, That all officers of the Revenue-Cutter Service who have been placed upon permanent waiting orders under the operations of the law hereinbefore cited, shall, from and after the passage of this act, be entitled to and shall receive three-fourths of the duty pay of their respective grades. But nothing in this act shall be construed as increasing the number of officers upon the active list now authorized by law, and no commissioned officer shall be retired from active service under the provisions of this act who shall not have served as a commissioned officer for a period of ten years, unless he shall have incurred physical or mental disability due to exposure in the line of and incident to the duties of his profession."

Strike out section 2 and insert the following:

"That when any commissioned officer of the Revenue-Cutter Service shall have served thirty consecutive years in said Service he may be retired from active service by the President, upon his own application, and be placed on permanent waiting orders with three-fourths of the duty pay of his grade."

The word "their," in line 3 of section 4, should be stricken out and the word "his" substituted.

I beg leave to suggest, also, that the increase of pay for longevity, in section 4 of the bill, is excessive, and ought to be reduced to 5 per cent for each five years of service, and not to exceed, in any case, 25 per cent of the annual pay provided by law for the grade to which the officer belongs.

With these amendments, it is my opinion that the bill would be beneficial to the Service, and should be passed.

Respectfully, yours,

J. G. CARLISLE, *Secretary.*

Hon. WM. P. HEPBURN, M. C.,

*Chairman Committee on Interstate and Foreign Commerce,
House of Representatives.*

Your committee, after careful consideration of the recommendations of the Secretary of the Treasury and the provisions of the substitute bill unanimously reported by the Committee on Commerce of the Senate, unanimously concur therein, and adopt and make the report accompanying said substitute a part of this report, as follows:

During the second session of the Fifty-third Congress your committee reported, as a substitute for a bill of this title, a bill prepared by the Secretary of the Treasury and transmitted to the Senate on March 22, 1894, the substance of which bill, as amended by the conference committee, became the provisions of the act of March 2, 1895, herein cited, the only material difference between said act and section 1 of the pending bill being that said act provided for a temporary board of officers of the Marine-Hospital Service to examine and report upon all officers of the Revenue-Cutter Service, etc., and the placing on permanent waiting orders out of the line of promotion, with half pay of their respective grades, such officers as were found and reported by said board to be permanently incapacitated, while the bill now reported by your committee, amended in accordance with the recommendation of the Secretary of the Treasury and by the committee, provides that the President from time to time, at his discretion, may convene boards of officers of said Service for the same purpose, thus making permanent a special act which has promoted the interests of the public service and the efficiency of the Revenue-Cutter Service in a very remarkable degree, while the half-duty pay fixed in the act is changed to a three-fourths-duty pay, as originally proposed by the committee, which is the law with respect to military and naval affairs.

The words "permanent waiting orders" in the act are changed in the bill to "a retired waiting orders list," upon the theory and principle, which governs in respect to the Army and Navy retired list, that the officers on this "retired waiting-orders list" might, in an emergency, be called on to perform such special service as they were physically able to render.

The pressing necessity of legislation by Congress to promote the efficiency of the Revenue-Cutter Service was fully set forth in the report (No. 362, Fifty-third Congress, second session) accompanying that bill and need not be repeated. It is proper, however, to remark that until the enactment of the legislation contained in said act there had not been a line of legislation looking to the improvement of this Service save the annual appropriations for its maintenance and an occasional appropriation for construction of a new vessel at a comparatively small expenditure. There had been repeated and urgent recommendations made to Congress by Secretaries of the Treasury for the last thirty years, and several committees of Congress had made favorable reports thereon, but nothing came of it in the way of legislation.

The act referred to was substantially an amendment reported by your committee and incorporated in the sundry civil act of March 2, 1895 (Fifty-third Congress, third session). It was disagreed to by the House of Representatives and finally, as modified by the conference committee (the principal change made being from three-fourths to half pay), became a law. It was an anomalous provision, not resting on any well-defined principle, for it cut down the pay of officers on "permanent waiting orders," but it was all that could be obtained from the House conferees and was accepted by the Senate as a step in the right direction.

The House of Representatives of the Fifty-first Congress, by an overwhelming vote (the yeas and nays being refused even), under a suspension of the rules, passed a bill to transfer the Revenue-Cutter Service from the Treasury to the Navy Department. That bill contained a provision placing the officers of this Corps on the same

footing in respect to retirement, pay, etc., as the officers of the Navy, i. e., three-fourths pay. It was reported by a distinguished Representative—now a member of this body—who stated that “this service is essentially a naval service, and has always been kept under military discipline and ready for use in time of war,” and it received the support of the present Secretary and Assistant Secretary of the Navy. It came to the Senate and received the unanimous approval of its Committee on Naval Affairs, but its passage was successfully resisted by Senators who opposed the transfer, but supported the feature of a retired list. It is therefore proper to say that the principle of a retired list for the officers of this Corps having received the approval of Congress and the Executive, this slight increase from one-half to three-fourths pay for the officers on a retired waiting-orders list is but the simple measure of justice to which they are entitled, and which is accorded the officers of the Army and Navy and the Marine Corps.

The following extract from the Annual Report of the Secretary of the Treasury for the fiscal year ending June 30, 1895, presents the views of that official in respect of the personnel of this Corps as affected by, and resulting from, the act above named:

“The personnel of the Revenue-Cutter Service is composed, when all grades are full, of 222 commissioned officers upon the active list, 38 upon the permanent waiting-orders list, and 815 enlisted men. Under the operation of the law of Congress approved March 2, 1895, 39 officers were examined and found disqualified for active service and were placed upon ‘permanent waiting orders’ with one-half duty pay. One of these has since died. This enactment has proved of great advantage to the Revenue-Cutter Service, having taken off the active list the aged and infirm, and provided for promotion to the vacancies thus created a class of young and able men physically and mentally qualified to perform service wherever assigned. But only those who were physically disqualified by reason of the infirmities of age or broken health at the date of the passage of the law were included in its provisions, and this has left upon the active list a number of officers who, if not now disqualified for service, must soon, in the course of nature, become so.

“Under the law as it now stands, should an officer become disabled his place can not be filled by promotion, but he must be continued on the active list, no matter what the necessities of the Service may be. In the interest of this Service, which is one of the most meritorious and important connected with the enforcement of the customs and other laws of the United States, I earnestly recommend the enactment of a statute providing for the compulsory retirement from active service of all officers at the age of 64 years and placing them on ‘permanent waiting orders’ with three-fourths of the full duty pay now allowed by law; but no officer should be thus placed unless he shall have served at least ten years. In order to maintain the highest degree of efficiency in the service, it should also be provided that officers who have not reached the age of 64 years, but who have been thirty years in active service, and who may be found by a board of medical officials to be mentally or physically disqualified on account of injuries or loss of health incurred in the line of duty, may be placed on ‘permanent waiting orders’ on their own application or by order of the President, with three-fourths full duty pay; and the provision in regard to amount of pay should apply to those already placed on that list under the act of March 2, 1895.

“There is no branch of the public service which, in a time of peace, requires such continuous, laborious, and hazardous service as this, nor is there any other branch in which the compensation is so inadequate in comparison with the character and extent of the work performed. The duties imposed upon the officers engaged in this Service often subject them to great exposure and hardship and require the exercise of a high order of skill and discretion, and it is therefore of the first importance that the mental and physical qualifications of the force should not be impaired by the retention of old, infirm, or otherwise disabled members. The simple power, which now exists, to place an officer on ‘waiting orders,’ but with no authority to fill his place on the active list by promotion, is not sufficient to preserve the efficiency of the Service, and unless further legislation is granted the injurious effects of the present system will soon be severely felt.”

Your committee very heartily concur in these views and approve the recommendations made.

When the complement of officers (222) allowed by law (sec. 2749, Rev. Stat.) is full, there are no more than enough to meet the great and constantly increasing requirements of the Service and the special demands upon the force. Unlike its kindred branches of the public service, the Army and Navy, all officers of the Revenue-Cutter Service who are fit for duty are constantly in active service, and there is no respite or exemption, save in short leaves, granted only when the condition of the Service will permit. Besides the officers regularly assigned to duty in connection with their own Service, there are every year at least twelve officers on duty in connection with the Life-Saving Service, under the provisions of section 8 of the act of June 18, 1872.

As stated by the Secretary of the Treasury, 39 officers of this corps have been

placed on a "permanent waiting-orders list," and the vacancies thus created were filled in accordance with the provisions of the act of March 2, 1895. But it must be clearly apparent that without further legislation the Service will soon, from natural causes, be again laboring under the same difficulty as before the passage of said act. It is also apparent that to make and keep this Service efficient, and at the same time place it upon an equal footing with its kindred branches, the Army and Navy, further legislation is required. All the considerations and arguments which have led to the establishment of a retired list for the Army and Navy and the Marine Corps apply with equal, if not greater, force in behalf of the establishment of a similar list for the Revenue-Cutter Service, and for the following among other reasons:

(1) That the Revenue-Cutter Service, under the provisions of section 2752, Revised Statutes, is purely a technical service, in that no person not trained in the technical profession of the sea can hold a commission in the corps, and, under regulations prescribed in conformity with the law referred to, all officers are required to pass rigid professional examination for entrance and promotion.

(2) This Service is a part of the armed force of the country. Its officers devote their lives to carrying out certain requirements of the public welfare. Its officers and men may be called upon at any time to peril their lives, even in the performance of their routine duties. The ordinary cruising grounds of the revenue cutters are near the coast, exposed to the dangers of treacherous currents, fogs, storms, and other perils of the sea. A number of these vessels are detailed annually to cruise upon the coast during the most inclement season of the year, "to afford such aid to distressed navigators as the circumstances and their necessities may require." The performance of this duty involves much hardship and exposure. The results achieved show material assistance to commerce and the saving of hundreds of lives.

(3) The commissions of officers of the Revenue-Cutter Service are of the same (life) tenure as those of the Army and Navy. There are living and borne upon the rolls of this Service to-day officers who have held commissions from forty to sixty-five years. No officer has ever been dropped from the rolls for other than proven cause, such as bad conduct or failure to pass the required standard in professional examinations for status or promotion. The political affiliations of its personnel play no part in the Revenue-Cutter Service, either for entrance or advancement. Officers enter this Service, as they do in the Army and Navy, in the lowest grades, and work their way, through long years of service, by promotion (after examination) to the highest.

(4) While the Revenue-Cutter Service is, under existing law, a part of the civil establishment, it is to-day, and has always been since the foundation of the Government, constantly regarded and treated as a part of the military force of the country. Its vessels are armed cruisers, officered by men bearing the commissions (under military titles) of the President, by and with the advice and consent of the Senate, and manned by duly enlisted men; its officers and crews are uniformed in accordance with regulations prescribed by the Department; naval discipline and routine prevail on board of all its ships; the officers and crews are required to be proficient in naval drills and to possess a practical knowledge of the use of arms; all these things are military. The Service is required by law not only to aid in the protection of the revenue, but to enforce nearly every statute affecting the maritime interests of the country. By acts of Congress the Service is required to aid in the suppression of piracy, in the enforcement of the quarantine laws, and in preventing the violation of the neutrality laws, to suppress mutinies on board merchant vessels, and to use the armament of their ships and force on board, when necessary, to bring vessels to for examination.

(5) Under section 1492, Revised Statutes, officers of the Revenue-Cutter Service are invested with naval rank, and under the provisions of section 2757, Revised Statutes, the President may, by a simple order, require the Service or any part of it to cooperate with the Navy. Such cooperation is not dependent upon a state of war, but may be ordered at any time. Such was the case during the past two years (1892-1894), when several cutters served in the fleet, under the orders of a naval flag officer, in the Bering Sea.

(6) The following brief résumé of the history of the Revenue-Cutter Service is offered in further proof of its thorough military character, and as having been always treated under the law as a part of the military establishment:

The Revenue-Cutter Service was organized under the provisions of the act of August 4, 1790, and in the act approved March 22, 1794, providing for a naval armament, its vessels and crews were placed upon the footing, in discipline, drills, and armament, of regular vessels of war.

There being then no Navy Department in existence, nor for about six years thereafter, the Service was as a matter of convenience simply in the discharge of public business, attached to the Treasury Department, where it has remained ever since, the act of Congress of July 1, 1799, authorizing the President to "cause the revenue cutters to be employed to defend the seacoast and to repel hostility to vessels and commerce within their jurisdiction."

In 1798 the President, "with the view of producing concert of action of the naval

forces of the United States," placed certain revenue cutters at the disposal of the Secretary of the Navy, and eight of them cooperated with the Navy in the French and American difficulties (1798-1800), the details of which are fully set forth in a tabular statement given on page 4 of said Senate Report No. 362, Fifty-third Congress, second session.

They show conclusively that services of the most important and valuable character were rendered at very critical periods in our history, but for which disastrous results would have followed, seriously if not fatally affecting the American cause.

From the information therein given, as well as that furnished by the Secretary of the Treasury in his last annual report in respect to the operations of the Revenue-Cutter Service during the last fiscal year, it fully appears that the military-naval character of this Service has been established by law in respect to its employment in warlike operations in every war in which this country has ever been engaged, and that Congress, as well as the Executive Departments of the Government, have fully recognized the great importance and value of these services. The annual and special reports of many Secretaries of the Navy, Treasury, and War teem with such acknowledgments.

It would seem, then, that no further argument should be necessary to prove that the Revenue-Cutter Service, which requires commissioned officers to command its armed cruisers and seamen to man them and the whole subject, under the laws of Congress, to engage in offensive or defensive protection of the national life, is in fact a part of the military arm of the nation, and as such, by every consideration of justice and fairness, entitled to the same treatment of its old and worn-out personnel which has been extended by a generous Government to the kindred branches of the public service, namely, the Army and the Navy.

Objections to making provisions for a retired list for the Revenue-Cutter Service have been urged upon the ground that it is purely a civil service. It has been shown that the Revenue-Cutter Service is essentially a military-naval service and been always so regarded and so treated by the specific enactments of Congress. The manifest difference between the Revenue-Cutter Service and the civil service per se is shown by the following comparison of facts relative to the status and duties required of each:

(1) The hours of duty or labor required of the civil employee of the Government are fixed by law, are comparatively few, and confined to daylight, usually from 9 a. m. to 4 p. m. He is subjected to no sudden or unusual calls which demand of him an exhibition of manly fortitude or courageous effort and never to risk his life to save others; no life or property is ever in jeopardy, for the loss of which he can be held even remotely responsible; he can choose his own home and secure its privacy; he has but one home to maintain, and being constantly at his fireside can practice such economy of his means as will secure him against privation in his declining years; he experiences no more of the vicissitudes of life than the ordinary man of business, hardly so much, because his income is assured; should sickness or death invade his home he is always within call; he can devote his leisure to such interests and occupations—not interfering with the duties of his office—as taste and inclination may dictate, thus gratifying desires which render life most endurable, while not a few instances can be cited wherein the incumbents of civil offices thus circumstanced have been enabled by the leisure afforded them after office hours to qualify themselves for the practice of law, medicine, and other professions; in short, the choice is left to him whether he shall be a drone in the hive, or become a useful citizen, fitted to cope with his fellows in all the avenues of life.

The conditions here set forth are intended to apply wholly to officers of the civil service of grades corresponding to commissioned officers of the Revenue-Cutter Service.

(2) On the other hand, "the officer of the Revenue-Cutter Service has no settled home or habitation; he is, by force of circumstances, practically a nomad; he has two separate and distinct establishments to maintain, his own temporary resting place on shipboard and the equally transitory lodgings of his wife and family on shore. He is confined to cramped and inconvenient quarters, in which, for the most part, decent privacy is denied him; he inhabits, with a half dozen others, a room generally about 10 by 18 feet; here he must sleep, perform his ablutions, receive and entertain his friends, and break his daily bread, with the congenial and uncongenial alike. His sleeping berth is often barely large enough to contain his person; his comforts are such as he can catch as his life wears on; his hours of duty embrace the night as well as the day and cover the whole twenty-four. He is burdened with the responsibilities of many lives, as well as the care and safety of the property confided to his skill and courage; he must brave the terrors of Arctic seas and face the rigors of the winters on our Northern seaboard; he must expose himself to the malaria of our Southern coasts and to the yellow fever in the Mexican Gulf. He must cheerfully leap from his berth at night—at midnight—to obey, often half clad, because of the suddenness of the summons, amid storm and tempest, to save life and property. Amid all discomfiting and discouraging circumstances, in the faithful execution of his duty, his voice must be heard above the tumult and din, cheerily encouraging his

subordinates, and giving to them the example of a leader for their emulation. Stricken ill in the line of duty, he is rewarded for his abnegation of self by having his already slender pay cut down at the very time when he needs it most. And so, absent from wife, children, home, and friends, he fares as best he may."

It is not urged that the wide differences shown here to exist as between the duties of and the responsibilities devolved upon officers of the civil service on the one hand and those relating to the Revenue-Cutter Service on the other is proof absolute that the latter is not purely a civil service, but the contention is that only a military service has ever in this country or any other been invested by law with the power, responsibilities, and functions for the performance of duties in any way analogous to those which the Revenue-Cutter Service has, under the behests of law, discharged from the foundation of our Government to date. Again, as has been previously shown, the officers of the Revenue-Cutter Service are, under existing law, at all times and under all conditions, subject to the orders of the President, required to discharge any duty whatever that the Navy can be called upon to perform in peace or in the defensive or offensive operations incident to a state of war; whether for home defense or for the invasion of the enemy's country; whether for special or general service in foreign or domestic waters, the Revenue-Cutter Service is now, and has always been, held under the law to be a part of the military force of the country. Will anybody assert that any part of the civil establishment can be so held? That any law is extant by virtue of which postmasters, railway mail employees, collectors, surveyors, inspectors of customs, chiefs of bureaus and divisions, and clerks in the Departments at Washington, or any of the thousands of other officials and employees who go to make up what is known as the "civil establishment" can be so held? That any law is in existence under or by virtue of which any body of civil functionaries of the Government could be ordered into active service for any purpose in time of war unless they were first regularly organized, enrolled, and mustered into the service and assigned to the Army or Navy for duty? The exact status of the Revenue-Cutter Service, under existing law, is that of the Army and of the Navy, in that it is a regularly organized, armed, and equipped military corps of 220 officers, 850 seamen, and 36 vessels of all classes, always, and without the least possible friction of law, ready to receive and obey the orders of the Government, be the same what they may.

The effect of the substitute reported upon the personnel of the Revenue-Cutter Service would be to place upon the retired waiting orders list, on account of age, under the provisions of section 3, five officers in 1896, one in 1897, one in 1898, and so on. In the meantime the very old men now on the permanent waiting orders list, several of whom are more than 90 years of age, must soon pass away, so that the retired waiting orders list will not be increased. It is not believed that many officers would avail themselves of the provisions of section 2 of this bill, for the reason that all officers who have served the prescribed term of thirty years are now in the grades of captain and chief engineer.

Promotions in the Revenue-Cutter Service under the most favorable conditions are exceedingly slow, owing to the small number of officers. The pay fixed by existing law for each grade remains the same during the whole term of an officer in a particular grade or rank. Officers usually serve from ten years in the lowest grades (third lieutenant and second assistant engineers) to seventeen and eighteen years in the grades of first lieutenant and first assistant engineer before they reach promotion. From this it will be seen that a newly appointed third lieutenant or second assistant engineer, or a newly promoted first lieutenant or first assistant engineer, receives exactly the same compensation as the officers who have served in those grades for ten or fifteen years. In short, there is no allowance whatever made in the matter of compensation for length of service, and for that reason your committee earnestly recommend the longevity clause of this bill contained in section 4, as existing law allows this to the Army, Navy, and Marine Corps.

A comparison of the pay of the Army and Navy (the pay of the Marine Corps being the same as that of the Army) with that of the Revenue-Cutter Service will best show the discrimination against officers of the latter Service.

Difference in pay of officers, rank for rank, in the Army, Navy, and Revenue-Cutter Service after twenty years of service.

Army.		Navy.		Revenue-Cutter Service.	
Rank.	Pay.	Rank.	Pay.	Rank.	Pay.
Major.....	\$3,500	Lieutenant-commander.	\$3,000½	Captain	\$2,500
Captain.....	2,520	Lieutenant.....	2,600	First lieutenant and chief engineer.	1,800
First lieutenant.....	2,140	Lieutenant (junior)...	2,000	Second lieutenant and first assistant engineer.	1,500
Second lieutenant....	2,000	Ensign.....	1,400	Third lieutenant and second assistant engineer.	1,200

Section 4 of the bill is designed to correct the inequality of pay as between the officers of other kindred services and the Revenue-Cutter Service. It should be remembered in this connection that while officers of the Revenue-Cutter Service have no higher rank than that of captain, with the relative rank of a lieutenant-commander United States Navy, to look forward to, officers of the Army, Navy, and Marine Corps each have a long list of ranks above the grade of major and lieutenant-commander, with increased pay and emoluments in every one.

The bill as originally introduced has been amended by the committee in accordance with the suggestion contained in a letter of the Secretary of the Treasury, as well as in some minor details, a copy of which is appended and made a part of this report. These amendments have been incorporated in a substitute, the passage of which, in lieu of said original bill, is recommended by your committee.

Your committee fully concur in the views expressed in the foregoing full and comprehensive report made by Senator Frye.

The bill passed by the House of Representatives of the Fifty-first Congress, under a suspension of the rules, with but 17 votes in the negative, to transfer the Revenue-Cutter Service from the Treasury to the Navy Department, was based, as fully appears from the debate had thereon, upon the theory and principle that the Revenue-Cutter Service was distinctly and especially a naval service, and was so recognized and that status fixed in many sections of the Revised Statutes.

That bill placed this service on the same footing with the naval service in every particular. Not only that, but it was retroactive in respect to pay, and would have involved the payment of many hundreds of thousands of dollars. This bill is prospective in its operations and effect, and involves an appropriation in the next fiscal year of but \$51,000, which, in the future, will decrease as the older officers are retired under its provisions, or die. It covers a period of neglect by Congress of almost a quarter of a century of an important branch of the public service, and its effect is to put it abreast and in line with its kindred branches, the Army, Navy, and Marine Corps.

Your committee accordingly unanimously report the accompanying substitute bill (H. R. 6120), identical with Senate bill No. 1701, and recommend its passage.

ADDITIONAL ASSOCIATE JUSTICES OF THE SUPREME
COURT OF OKLAHOMA.

FEBRUARY 14, 1896.—Committed to the Committee of the Whole House on the state
of the Union and ordered to be printed.

Mr. BAILEY, from the Committee on the Judiciary, submitted the
following

REPORT:

[To accompany H. R. 3278.]

The Committee on the Judiciary have had under consideration House
bill 3278, and report the same back to the House with the recommen-
dation that it pass.

PROTECTION OF THE COIN REDEMPTION FUND, ETC.

FEBRUARY 14, 1896.—Ordered to be printed.

Mr. DINGLEY, from the Committee on Ways and Means, submitted the following

R E P O R T :

[To accompany H. R. 2904.]

The Committee on Ways and Means, to whom was referred (H. R. 2904) an act to maintain and protect the coin redemption fund, and to authorize the issue of certificates of indebtedness to meet temporary deficiencies of revenue, which passed the House December 28, 1895, and which has been returned from the Senate with an amendment striking out all of the House act and substituting therefor provisions on subjects entirely distinct from those in which the House invited the concurrence of the Senate, have considered the Senate amendment in the nature of a substitute and recommend that the House nonconcur in the same and insist on the passage of the act as passed by the House and sent to the Senate.



INTERNATIONAL DAM AND RESERVOIR ON THE RIO
GRANDE DEL NORTE.

FEBRUARY 15, 1896.—Ordered to be printed.

Mr. PERKINS, from the Committee on Printing, submitted the following

REPORT:

[To accompany H. Res. 164.]

The Committee on Printing, to whom was referred the resolution (H. Res. 164) to print 500 copies of the report of Maj. Anson Mills, United States Army, dated October 10, 1889, to the Director of the Geological Survey, on the subject of his investigations and surveys for an international dam and reservoir on the Rio Grande del Norte for the purpose of controlling the flood waters of said river and preserving the boundary between the United States and Mexico, with the five appendices, A, B, C, D, and E, attached thereto, have had the same under consideration, and report the same back with a recommendation that the House agree to the same.

The Public Printer estimates the cost of the same, under the terms of the resolution, at \$230.



DEPOSIT OF REVENUES.

FEBRUARY 15, 1896.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. GILLETT, of Massachusetts, from the Committee on Reform in the Civil Service, submitted the following

REPORT:

[To accompany H. R. 6062.]

The Committee on Reform in the Civil Service have had under consideration the bill (H. R. 6062) to amend section 3621 of the Revised Statutes, relating to the deposit of revenues, and report the same with the recommendation that it do pass.

The committee submit as a part of this report a letter from the Secretary of the Treasury.

The bill not only fixes the limit of thirty days for the deposit of public moneys other than postal revenues, but also requires the original receipt in all cases to be forwarded direct to the Secretary of the Treasury, which will operate to expedite the settlement of accounts by not less than four weeks in most cases.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., February 14, 1896.

SIR: I have the honor to recommend that section 3621 of the Revised Statutes be amended so as to read as follows:

"SEC. 3621. Every person who shall have moneys of the United States in his hands or possession, other than moneys arising from postal revenues and debts due to the Post-Office Department, shall pay the same to the Treasurer, an assistant treasurer, or some public depository of the United States, without delay, and in all cases within thirty days of their receipt. And the Treasurer, the assistant treasurer, or the public depository shall issue duplicate receipts for the moneys so paid, transmitting forthwith the original to the Secretary of the Treasury and delivering the duplicate to the depositor."

The principal change effected by the proposed amendment is to require that deposits of public moneys shall in all cases be made within thirty days of their receipt, and that the original receipt issued therefor shall be transmitted to the Secretary of the Treasury by the officer receiving the deposit instead of the depositor.

Respectfully, yours,

J. G. CARLISLE, *Secretary.*

Hon. A. M. DOCKERY,
House of Representatives.

DELINQUENT OFFICIALS.

FEBRUARY 15, 1896.—Referred to the House Calendar and ordered to be printed.

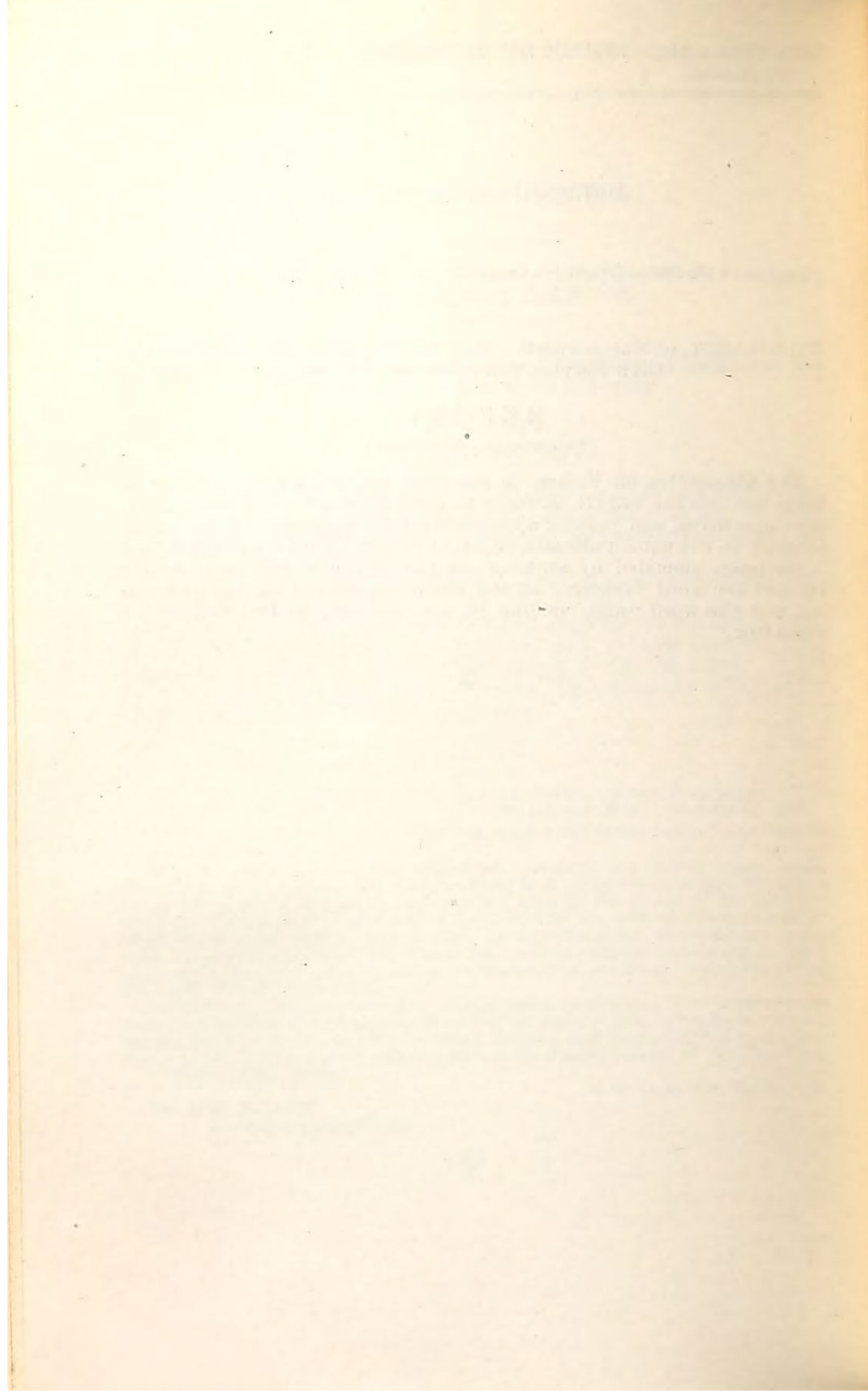
Mr. GILLETT, of Massachusetts, from the Committee on Reform in the Civil Service, submitted the following

REPORT:

[To accompany H. R. 6063.]

The Committee on Reform in the Civil Service, having had under consideration the bill (H. R. 6063) to amend section 12 of the legislative, executive, and judicial appropriation act approved July 31, 1894, relating to delinquent officials, report it with the recommendation that it do pass, amended by striking out the second word "and" in line 14, and the word "officers," at the beginning of line 15, and by striking out the word "and," in line 16, and inserting in lieu thereof the word "or."





LABOR COMMISSION.

FEBRUARY 15, 1896.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. PHILLIPS, from the Committee on Labor, submitted the following

REPORT:

[To accompany H. R. 6119.]

The Committee on Labor, to whom was referred House bill 6119, being the amended bill or substitute for H. R. 21, after having carefully considered the same, beg leave to report in favor of the passage of the bill (H. R. 6119), for the following reasons:

Because there is widespread dissatisfaction with the laws governing labor, as shown by discontent, strikes, and violence, causing great misery, loss, and danger to society.

Because of the growing discontent among farmers, as evidenced by their various organizations, their protests against unequal burdens and taxation, discriminating charges in transportation, and exorbitant charges by middlemen in disposing of their commodities.

Because the business men need and business interests require a just and more satisfactory settlement of differences with those with whom they deal, and upon whose labor and products successful business must depend.

Because it is expected that this commission will be composed of experts, the ablest and best of each class named, bringing into conference representative men of labor, agriculture, and business, whose duties will be to recommend laws looking toward a more just distribution of the burdens and benefits of our self-government.

Because our laws have not kept abreast with the rapid pace of development. New conditions confront us on every hand in the massing of labor and capital; in new improvements in the instruments of husbandry (making great changes in agricultural pursuits); in the mode of manufacturing, transportation, travel, and intercommunication.

All have been revolutionized within a generation.

We have been offering premiums for inventions, discovery, and development. We have had ten thousand men burning midnight oil inventing labor-saving machines and devices of all kinds until we have changed the whole order of industrial pursuits; but we have offered no premium for talent or energy in ameliorating the altered conditions of labor; established no commission to bring up our laws to meet these new conditions; hence there is friction, discontent, and violence, destroying peace, property, and life.

Because of the importance of the agricultural pursuit to the welfare and happiness of man, the agricultural industry is the most important of all industries. All civilized life depends upon the products of the soil; all food and clothing come from the soil; yet this most important

industry is greatly depressed. The constant settling in the value of farm products and farm land in recent years in a large portion of the United States has made great discontent and unrest among farmers. Many of them can not hope to have their children succeed them in husbandry, and they are exhausting their limited means to fit them for pursuits in the crowded town or city.

In 1870 the value of the farm lands in the United States was \$9,262,803,861; in 1880 it was \$10,197,096,776, an increase in value, notwithstanding the opening up of millions of acres rich in soil, of less than \$1,000,000,000, while population increased in the same time from 38,000,000 to 50,000,000—an increase of 10 per cent in value of farms and 40 per cent in population.

Again, in 1880, the value of property in the United States, in round numbers, was \$43,600,000,000; in 1870, \$30,068,518,507.

These are startling figures when we consider that agriculture is the foundation of all other industries, and that 44 per cent of the toiling people were engaged in tilling the soil. No country can prosper when the agricultural interest is suffering. This commission is needed by the farmers, not only because of these facts, but on account of their growing discontent, as shown by their various organizations and protests against unequal burdens and discriminating laws. Even if the agriculturalist had nothing of which to complain or to adjust, he is needed in such a conference as this to aid in seeking a way out of the manifold labor troubles which so vitally affect his interests as well as those of the whole population.

In the very beginning, God sent forth man to till the soil as his chief employment. All civilized life depends upon agriculture. Without the farmer the world would be a wilderness. In our marvelous development the interests of the farmer have not been properly guarded.

That our relations are most intimately bound up with the wage earner is shown by the many strikes and lockouts in recent years, which have entailed great suffering and loss of property, as well as the sacrifice of life. Upon this subject of strikes we desire to state that the Hon. Carroll D. Wright, Commissioner of Labor, in his third annual report submitted the results of an extensive investigation as to strikes and lockouts in the United States from 1880 to 1886. It will be seen by an examination of this summary that during the years named (1881 to 1886, both inclusive) there were 3,902 strikes in the United States.

There were 22,304 establishments and more than 1,323,203 employees involved.

It will be seen also by this report that—

The loss to the strikers for the period of six years was.....	\$51, 814, 723
Loss to the employees by reason of lockouts.....	8, 157, 717
Loss to employers of labor.....	34, 163, 814
Amount of assistance to strikers by contribution.....	4, 430, 595
Total loss in the six years.....	98, 566, 859

These figures represent the actual loss to the parties engaged and do not represent the enormous loss which incidentally came to the community by reason of such disturbances.

The facts and figures of the last few years in regard to strikes and lockouts are not fully accessible. They are recent history and are still more appalling than those given. One writer has estimated the loss caused by strikes in 1894 at \$80,000,000. Others estimate it as high as \$100,000,000.

Labor is the basis of all wealth, and has been from the time when God said, "In the sweat of thy face shalt thou eat bread."

Without labor none can accumulate, and all development would cease. The claims of the laborer must be justly met, so that in bearing the great burdens of life he will share more equally in its enjoyments.

Again, we recommend the passage of this bill because business men have and will continue to suffer great depreciation and increasing losses unless a better adjustment is made.

Because the good of society demands it, in that so much of vital importance to its well-being and peace is bound up in massed capital and massed labor, so frequently in conflict, and which now largely control production, manufactures, transportation, and development, the very sources of supply and demand upon which the good order of society depends. The commission proposed is nonpartisan, impartial, and designed to meet the wants of all the people.

This commission is designed also to benefit the business men. The disturbed condition of affairs has entailed great loss upon the business community. The loss of \$34,000,000, as shown in table quoted, in six years, to the employers of labor is but a fractional part of the loss sustained by transporters, merchants, and others engaged in business pursuits. Business men have and will continue to suffer great depressions in value and increasing losses unless a better adjustment is made. Business men need and business interests require a just and more satisfactory settlement of differences with those with whom they deal and upon whose labor and products successful business must depend. The better labor is protected in all its rights the better will be the security for earnings.

Because we declared equal rights, and millions of our citizens are complaining that they have not been protected in them. Rights are as eternal and immutable as truth. There is always a way to do right, and a way to right wrongs. If wrongs exist they should be righted. Rights must be guarded and maintained. Right is eternal and, like truth, will prevail. The commission is important, because of its inquiry along the entire line of this fundamental principle of our Government, and therefore the demands of the people require such work as is proposed by this bill.

Because the national and State legislative bodies are not so constituted as to be able to give proper time to the examination of the industrial matters presented in this bill, nor are they made up equally of representative men such as is proposed by this commission; nor are they nonpartisan. These bodies are besieged by men, lobbying for special privileges, while none are lobbying for the good of all. The work of this commission is confined to the pressing questions of the age, and to our new environments; and its investigations and recommendations are designed to meet the greatest needs of our times. It can hear, consider, and recommend in a shorter time and with less expense for the best good of all than can be accomplished by a legislative body, or in any other way.

We believe Congress is the proper body to authorize the appointment of such a commission, as it is composed of members coming from all parts of every State. However jealous we may be of the rights of the States, no one can object to such a commission making recommendations to Congress, and furnishing information to the States which may be of the greatest value.

Because the commission could utilize a large amount of statistical information gathered at great cost by various agricultural and labor

organizations, and especially could use to great advantage the information collected by the various labor committees appointed in recent years, both State and national, in our own country and by other nations most advanced in civilization. The facts so ably compiled by the Hon. Carroll D. Wright, Commissioner of Labor for the United States, would be of incalculable value. This, together with the findings of similar commissions appointed by thirty-two of our different States, could be utilized. It would also have the benefit of the completed work of the English Royal Commission of Labor, and also the progressing work of the Higher Council of Labor established in France, and the Higher Council of Labor appointed in Belgium. Not only would it have the benefit of all such recently accumulated facts, but it would be in position to study the best laws of civilization and the best thoughts of the age, and thus be able to recommend more equitable laws than now exist, looking to the solution of the most vital and pressing political and economic questions of the age.

Labor statistical bureaus are of recent origin, and were first established in the United States—the first one in Massachusetts in 1869. They have since been established in thirty-two of our States. The first Commissioner of Labor, the Hon. Carroll D. Wright, was appointed under the General Government in 1885. The English Royal Labor Commission was appointed by royal warrant dated April 21, 1891, and is composed of 27 members. The fifth and final report of this commission was made to both houses of Parliament in June, 1894. The German Commission of Labor Statistics was appointed in 1891, and it consists of 14 members, 168 civil servants, and 84 assistants. The Higher Council of Labor was established in France in 1891. It consists of 50 members, chosen from among manufacturers, workingmen, and persons well informed upon economic and social questions. The Belgians Higher Council of Labor was appointed in 1892. It consists of 48 members, chosen in equal numbers from workingmen, employers, and specialists in economic science.

Both these latter are authorized to examine into and recommend legislation. These foreign commissions are cited as precedents, and to show that civilized nations are progressing along the line of our declared principles of equality which are recalled by this bill.

We do not consider the commission too large to represent a continent such as ours, with its vast and varied industries. The difference in climate, the difference between plain and mountain, the difference between North and South, East and West, give rise to great industries in one section that are not well understood in another; all of which should have representative men serve on the commission. Even the number provided for will not represent all, but it is believed that it will have reasonable knowledge of all the great pursuits of our country, and will be in full sympathy with all, so as to hear and recommend for the greatest good of the greatest number.

We think the appropriation required by this bill not too large to secure and compensate such representative men as it requires. While the Government is appropriating millions of dollars for internal improvements, for material development, for defense on land and sea, it should not hesitate to grant such a comparatively small sum to investigate the industrial questions and recommend some remedial legislation for its industrial classes to prevent violent disturbances which cause so many million dollars of loss to the people.

We beg leave to call attention of the Members of Congress to the general wish of the people, especially in the laboring and farming

interests of our country, as witnessed by letters, resolutions, and petitions addressed to the labor committee of the last Congress favoring the passage of this bill, and which was favorably recommended by that committee. We also call attention to similar communications addressed to our committee of the present Congress favoring the passage of the bill, from both of which we give extracts below.

Your committee, therefore, recommend that the bill be passed.

NEW YORK, *January 7, 1895.*

MY DEAR SIR: It is with more than ordinary pleasure I note that House bill 7756 has been referred to the Committee on Labor, of which you are the honored chairman, and that the prospects are good for a favorable report from the committee to the House.

In my report as president of the American Federation of Labor, to the fourteenth annual convention, recently held at Denver, Colo., I took occasion to say the following in reference to the bill:

"A bill was introduced by the Hon. Thomas W. Phillips in the House for the purpose of creating a commission, to be appointed by the President, for the purpose of inquiring into the condition of industry, and to what extent the people have been deprived of the rights guaranteed by the Constitution of the United States and the Declaration of Independence. The bill prescribes that representatives from organized labor, business men, and farmers shall be appointed.

"The executive council indorsed the bill and organized labor generally approved it, forwarding resolutions to their respective Congressmen and Senators certifying to that effect. It is desirable that the bill before its final passage should receive the consideration of this convention to say whether any amendments may be required.

"Copies of the bill will be laid before the appropriate committee to which this subject may be referred."

The subject-matter was referred to the committee on president's report, which subsequently requested that a special committee be appointed for the purpose of expressing the sentiments of the convention thereon. The special committee reported in favor of the bill and recommended its indorsement by the convention. It also made the following recommendations:

"We would also recommend that, in case the said bill becomes a law, all matters indorsed by this body requiring Congressional action shall be submitted to the representatives of labor provided for in the bill, and that efforts be put forth by the executive council to secure the appointment of union men as such representatives.

"We would further recommend that all bodies affiliated with the American Federation of Labor petition their respective Senators and Representatives in Congress to vote for the passage of the above-named measure."

The report of the committee, I take pleasure in saying, was adopted by the convention by an overwhelming majority.

In all likelihood I may be in Washington during the coming week, and if I am I shall deem it both a pleasure as well as a duty to call upon you in connection with this bill and other measures in which the organized wage workers of our country are interested.

Truly, yours,

SAML. GOMPERS.

Hon. LAWRENCE E. MCGANN,
Chairman Committee on Labor, House of Representatives,
Washington, D. C.

PHILADELPHIA, PA., *December 14, 1894.*

SIR: Understanding that your committee have now under consideration H. R. 7756, introduced by Congressman Phillips, of Pennsylvania, being "A bill authorizing the appointment of a nonpartisan commission to collate information and to consider and recommend legislation to meet the problem presented by labor, agriculture, and capital," I beg leave to offer my personal and official indorsement of the propositions therein contained. It is not possible within the prescribed limits of a letter to give all my reasons therefor, but suffice to say for the present that it seems to me this would be a practicable way, not only of securing the best information as a basis for the making of laws conserving the interests of all classes, but would, to a considerable extent, do away with the necessity for various organizations of labor, capital, and agriculture sending committees to Washington to influence legislation and lobbying in the interest thereof. The prosperity of the urban work-

ing classes is so closely interwoven with that of the agriculturist and the manufacturer, that I doubt very much if any of us know where the interests of each begin or end. Such a commission as proposed by the bill would have the combined advantage of being representative of all classes, and securing information hardly accessible under other conditions.

The weight of recommendations from such a commission to the lawmaking power of States and nation would certainly be much greater than similar recommendations coming from any other source, inasmuch as it would be nonpartisan and representative of all classes.

Believing I voice the hearty concurrence of the large constituency I have the honor to be affiliated with and represent in the above indorsement, I am,

Very truly, yours,

JNO. W. HAYES, *General Secretary-Treasurer.*

Hon. LAWRENCE MCGANN,
Chairman Committee on Labor, Washington, D. C.

HARRISBURG, PA., *December 22, 1894.*

DEAR SIR: My attention having been called to House bill No. 7756, Fifty-third Congress, second session, entitled "A bill authorizing the appointment of a nonpartisan commission to collate information and to consider and recommend legislation to meet the problems presented by labor, agriculture, and capital," and having examined the said bill with much care, I had it laid before the Farmers' Alliance council of this country, where it met, after discussion, with unanimous approval.

This week it was laid before the council of the Pennsylvania State Farmers' Alliance and Industrial Union, its provisions discussed, and the measure was practically unanimously approved.

The bill has been laid before a majority of the members of the executive committee of the National Farmers' Alliance and Industrial Union, and has their approval.

Personally, I hope it will become a law at a very early day, as the agricultural element of the United States, I am sure, will be greatly benefited by the labors of a commission appointed in the manner proposed by the bill referred to.

Very respectfully,

H. C. DEMMING,

Secretary Executive Committee National Farmers' Alliance and Industrial Union.

Hon. LAWRENCE E. MCGANN, M. C.,
Chairman of the Congressional Committee on Labor.

DES MOINES, IOWA, *December 18, 1894.*

DEAR SIR: H. R. 7756 having been called to my attention, I take great pleasure in informing you that it meets my most hearty approval.

It seems to me that the bill promises more for the harmony of conflicting interests at this time than any other measure now pending in Congress.

Thanking you for the introduction of so just and timely a measure, and trusting for its immediate passage, I am,

Respectfully, yours,

J. R. SOVEREIGN,
Grand Master Workman.

Hon. T. W. PHILLIPS, M. C.,
Washington, D. C.

WASHINGTON, D. C., *February 7, 1896.*

A bill, known as the "Industrial commission" bill (H. R. 21), has been introduced in the first session of the Fifty-fourth Congress. The position of the National Farmers' Alliance and Industrial Union on the proposition is as follows:

We favor the appointment of a nonpartisan commission to collate information and to consider and recommend legislation to meet the problems presented by labor, agriculture, and capital. Inasmuch as it is to be preliminary to proposed wholesome national legislation, and as the work of such a commission will gather many facts and figures into official form, all at the expense of the General Government, we indorse such legislative action.

In indorsing such a commission, however, we are firmly of the opinion that the appointment of the commission should be surrounded by such safeguards as to insure the appointment of members favorable to the industrial classes. The expenses of such a commission should be kept within the limits of strict economy.

J. W. BOWDEN, *Chairman.*

C. R. WHITE,

E. M. WARDALL,

Conference Committee N. F. A. and I. U.

Certified copy.

J. W. BOWDEN, *Chairman.*

OFFICE OF GENERAL ASSEMBLY,
ORDER OF KNIGHTS OF LABOR,
Washington, D. C., January 20, 1896.

GENTLEMEN: We, the undersigned general officers of the Knights of Labor, acting on behalf of the entire organization, cordially commend to your favorable and prompt consideration the bill (H. R. 21) introduced by Hon. T. W. Phillips, of Pennsylvania, which is entirely acceptable to our members.

Most respectfully,

J. R. SOVEREIGN, G. M. W.,

M. J. BISHOP, G. W. F.,

JNO. W. HAYES, G. S. T.

C. A. FRENCH,

T. B. MCGUIRE,

J. M. KENNEY,

H. B. MARTIN,

Members of General Executive Board.

The COMMITTEE ON LABOR,

House of Representatives, Fifty-fourth Congress.

From the report of the committee on the president's report, made to the fifteenth annual convention of the American Federation of Labor, held at New York, N. Y., December 9 to 17, inclusive, 1895, the following extract is taken:

Renewed efforts should be made to secure the passage of the Phillips bill, which was defeated at the last session of Congress, and a committee should be appointed by this convention to urge the passage of this bill.

We also beg leave to call attention to the appended list, only partial, of labor organizations, churches, ministerial associations, Christian Endeavor, Young Men's Christian Associations, and other bodies which have petitioned Congress for the passage of this bill:

Cigar Makers' International Union, No. 99, Ottawa, Ill.

Cigar Makers' International Union, Laporte, Ind.

Cigar Makers' International Union, No. 48, Toledo, Ohio.

Typographical Union, No. 1, Indianapolis, Ind.

Central Labor Union, Indianapolis, Ind.

Order of Railway Conductors, Moberly, Mo.

Hat Makers' Association of Philadelphia, Pa.

Order of the Knights of Labor, Philadelphia, Pa.

Division 182, Brotherhood of Locomotive Engineers, Little Rock, Ark.

Teamsters and Shovelers' Union of Indianapolis, Ind.

Central Labor Union, Toledo, Ohio.

Local Union No 563 of the Carpenters and Joiners of America.

Local Union, No. 699, Brotherhood of Carpenters and Joiners, of St. Louis, Mo.

Cigar Makers' Union, No. 113, Tacoma, Wash.

Four thousand members of the Teamsters and Shovelers' Union, Indianapolis.

United Brotherhood of Carpenters and Joiners, St. Louis, Mo.

United Brotherhood of Carpenters and Joiners, Omaha, Nebr.

United Brotherhood of Carpenters and Joiners, Local Union, No. 563, Scranton, Pa.

United Brotherhood of Carpenters and Joiners, Wheeling, W. Va.

General Master Workman of the Order of the Knights of Labor, J. R. Sovereign
Des Moines, Iowa.

American Federation of Labor, New York.

Central Labor Union, Indianapolis, Ind.

Brotherhood of Railroad Trainmen, Elm City Lodge, New Haven, Conn.
Cigar Makers' Union, No. 32, Louisville, Mo.
Order Railway Conductors, Memphis, Tenn., Division 175, of Order Railway Conductors of America.
Cigar Makers' Union of Three Rivers, Mich.
Farmers and Laborers' Union of Madison, Tenn.
Cigar Makers' Union of Danbury, Conn.
Carpenters and Joiners of America, Union 373, Lincoln, Nebr.
Brotherhood of Locomotive Engineers, Brunswick, Ga.
Cigar Makers' Union of Akron, Ohio.
Cigar Makers' Union of Quincy, Ill.
Cigar Makers' Union of Williamsport, Pa.
Eden City Lodge, 201, Brotherhood of Railroad Trainmen.
Cigar makers of Danville, Ill.
Cigar makers of Portland, Me.
United Brotherhood Carpenters and Joiners, Springfield, Ill.
United Brotherhood Carpenters, Wheeling, W. Va.
United Brotherhood Carpenters, Akron, Ohio.
United Brotherhood Carpenters, Union 685, Omaha, Nebr.
Ministerial Association, Dayton, Ohio.
Christian Endeavor Executive Committee, Dayton, Ohio.
Trinity M. E. Church, Chester, Pa.
Methodist Preachers' Meeting, Columbus, Ohio.
Young Men's Christian Association, Chester, Pa.
Building Trades Council, St. Louis, Mo.



OWNERS OF BRIG TALLY-HO.

FEBRUARY 15, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WATSON, of Indiana, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 2578.]

The Committee on Claims, to whom was referred the bill (H. R. 2578), entitled "A bill to refer the claim of the owners of the brig *Tally-Ho* to the Court of Claims," have had the same under consideration, and report as follows:

The grounds for such reference of the claim to the Court of Claims are so clearly stated in the annexed House Report (119) of the first session of the Fifty-first Congress, that the committee adopt it and recommend favorable action on the bill, in accordance with its suggestions.

As the general jurisdiction of the Court of Claims does not cover cases of marine torts, Congress has heretofore, in many cases similar to that of the *Tally-Ho*, given jurisdiction to said Court of Claims. See the cases of the schooner *Ada A. Andrews* (18 Stat. L., p. 201), the schooner *Flight* (19 Stat. L., p. 503), the schooner *Don Pedro* (20 Stat. L., p. 483), the towboat *Future City* (28 Stat. L., p. 219).

The bill has the merit of enabling the rights of the United States and the citizens affected to be finally determined by the Supreme Court, if said parties desire to appeal to said court from the judgment of the Court of Claims.

Your committee recommend that the bill do pass with the following amendment: "With the right of either party to appeal to the Supreme Court of the United States," added to the end of the bill.

[House Report No. 119, Fifty-first Congress, first session.]

The United States steam vessel of war *Pinta*, on the night of October 3, 1883, collided with and sunk the coal brig *Tally-Ho*, off the coast of Massachusetts. The Navy Department ordered a court of inquiry, which on investigation decided that the war vessel was at fault. Thereupon the Secretary of the Navy referred the case to the Court of Claims for investigation under the provisions of the second section of the act of March 3, 1883 (22 Stat. L., p. 485), commonly known as the "Bowman Act." Whereupon the legal owners of the said brig, on the 27th of July, 1884, filed in the Court of Claims their petition setting forth the loss of said brig by said collision.

Pending a trial of the case, and after much evidence had been taken and filed in the cause, the said Court of Claims decided in another case, also pending in said court, of a collision between a United States vessel and the schooner *Abbie Pitman*, which case had also been referred under the "Bowman Act," that collision cases could not be referred to the Court of Claims under that act, and consequently, that the court had no jurisdiction over the case of the *Abbie Pitman* (20 Court of Claims Reports, p. 253). This decision will necessarily require the dismissal of the claim in the case of the *Tally-Ho*, but the bill now proposed, if it becomes a law, will enable the court to take jurisdiction of that case and proceed with the hearing and determination of the same upon its merits, in the same manner as if the reference of the case to the Court of Claims had been authorized by an act of Congress before any proceedings had been had therein in said court, and will permit the claimants to use the testimony already taken in the case.

C. M. KIRKPATRICK.

FEBRUARY 15, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WATSON, of Indiana, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 3576.]

The Committee on Claims, to whom was referred the bill (H. R. 3576) for the relief of C. M. Kirkpatrick, having had the same under consideration, report as follows:

On the 6th day of June, 1895, after due process and according to law, a contract was let by the proper authorities to Christian M. Kirkpatrick for the permanent improvement of a certain street in the city of Indianapolis, on which the United States arsenal in that city is situated.

The contract under which this improvement was made called for a brick pavement laid on a concrete base, the brick to be the best hard-burned paving brick. The concrete was to be made of broken stone and Portland cement.

The arsenal grounds front 1,280 feet on said street, the width being 35 feet, and the Government being assessed for 17½ feet.

That said improvement was almost a necessity is proven by the testimony of a large number of competent persons, the thoroughfare being a main-traveled one, and being at certain seasons of the year almost impassable.

The contract price was \$4.68 per foot, which your committee believe to be a fair and reasonable price, since, by the terms of the contract, this claimant is under bond to keep said street in repair for five years from the date of its completion without additional cost to the adjoining property holders.

We find that said work was fully completed in a good and workmanlike manner, according to the terms and specifications of the contract, and that there has been no difficulty in the payment of any of the assessments made for the improvement of said street, except that of the Government.

The certificate of the comptroller of the city of Indianapolis shows that the amount of the assessment against the United States was \$6,332.30, which your committee believe to be due and owing the claimant in this case. Therefore, your committee recommend that the bill do pass.

LIEUT. COL. W. A. JONES.

FEBRUARY 15, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DENNY, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 1821.]

The Committee on Claims, to whom was referred the bill (H. R. 1821) to reopen, adjust, and pay the account for service of Lieut. Col. W. A. Jones, Corps of Engineers, having duly considered the same, do hereby report said bill back to the House with the recommendation that it do pass.

This is a claim for longevity pay for service in the Army. It appears that the Treasury officials for quite a time construed the act of Congress providing that an officer of the Army should have an increase of pay for each five years of service in the Army in such manner as to apply only to service of commissioned officers; but after many years the Court of Claims held that it applied to the service of enlisted men and of cadets at West Point, and this decision was confirmed by the Supreme Court. It was thus fully settled that this class of officers, as a result of the aforesaid ruling of Treasury officials, had not been paid for their services the full amount intended by the longevity law. At this point the Second Comptroller of the Treasury took the stand that the accounts for service of these officers had been settled and closed, and that he could not reopen them without authority of Congress. For this reason those officers, who have thus been deprived of pay justly due them, have been forced to go before Congress for redress, as granted in the bill in this case, if passed.

CONTINENTAL FIRE INSURANCE COMPANY OF NEW YORK
ET AL.

FEBRUARY 15, 1896.—Committed to the Committee of the Whole House and ordered
to be printed.

Mr. COX, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 1045.]

The Committee on Claims, to whom was referred House bill No. 1045, have carefully considered the same, and report it back to the House with the recommendation that it do pass.

Your committee find that the relief sought by this bill has heretofore been considered by committees of both Houses of Congress. The Ways and Means Committee of the Forty-eighth Congress recommended the passage of a bill similar to the one now being considered, and in the Forty-ninth Congress this committee reported House bill 1628, for the relief of these claimants, and the bill was passed by the House and reported favorably by the Finance Committee of the Senate.

In the Fifty-third Congress this committee made a favorable report, through Hon. N. N. Cox, of Tennessee (Report No. 1311, part 2), to accompany House bill 649, which is identical with the accompanying bill, and the Senate Committee on Claims also reported the bill favorably (Senate Report No. 891). The facts are as follows:

That prior to 1870 the claimants had made investments in the bonds and stocks of certain corporations.

That under the laws of 1862 and 1864 the internal-revenue tax of 5 per cent was paid by the parent companies to the Government, but notwithstanding such payment claimants were required by officers of the internal revenue to again pay a 5 per cent tax on the same income, thus enforcing the payment of a 10 per cent tax instead of the 5 per cent required by law.

That said claimants, in accordance with the law and regulations in that regard, filed refunding claims for the repayment of said tax unlawfully exacted. These claims were rejected by Commissioner Douglass, and the claimants had no notice of their rejection, although it was the practice of the office to give notice of such rejection to claimants, and the time allowed by law within which to bring suit for the recovery of these taxes had expired long before the claimants had any knowledge of their rejection. Mr. Douglass retired from the office of Commissioner of Internal Revenue soon thereafter, and his successors have held that they have no authority, under the practice of the Department, to reopen such cases without authority from Congress.

Since the rejection of said claims by Commissioner Douglass the internal-revenue office has taken up all other similar claims which were pending at the same time and left unacted on by Commissioner Douglass, and allowed them, the office adopting the law as construed by Judge Lowell in the case of the Merchants' Insurance Company v. McCartney, collector of internal revenue, United States circuit court, eastern district of Massachusetts, May term, 1870, reported in 1 Lowell, page 447; and said claims so allowed have been paid, the Secretary of the Treasury approving the payment.

Your committee file herewith a letter of Hon. J. W. Douglass, the Commissioner who rejected these claims, viz:

WASHINGTON, D. C., *January 12, 1895.*

DEAR SIRS: In reply to your inquiry in relation to my former action in the claims mentioned in H. R. 649—the present Congress—I desire to state as follows: I recollect the claims of the Continental Fire Insurance Company, and other similar companies, were before me as Commissioner of Internal Revenue for consideration in 1874. At this length of time my memory of all the facts is not very vivid, of course, but this I do say, that if my rejection involved the double payment of the tax, then my action was wrong, and ought to be corrected.

Mr. Charles Chesley was the Solicitor of Internal Revenue at the time, and was by all odds the best internal-revenue lawyer in the country; and he, if my memory is right, approved the allowance of the claims.

If in this rejection I violated Judge Lowell's opinion, then I was surely wrong, for the office always intended at least to obey and enforce in all kindred cases that decision, and I hope that the parties who suffered may have a remedy.

Very respectfully,

J. W. DOUGLASS.

Messrs. DAVIS AND EDWARDS.

Also copy of letter of Hon. Charles Chesley, the then Solicitor of Internal Revenue (original on file in internal-revenue office):

WASHINGTON, D. C., *January 1, 1894.*

DEAR SIR: I am in receipt of your letter of the 30th ultimo, in which you ask a statement of my recollection of the circumstances attending the rejection of certain claims for the refunding of internal-revenue taxes. These claims were made by certain corporations. They were made in accordance with a decision of Judge Lowell, a judge of the United States court for the district of Massachusetts, in which it was held that taxes such as these were double taxation, and therefore illegal. That decision was acquiesced in by the Government. No appeal was taken, and the judgment was paid. Other similar claims were allowed and paid without suit.

The particular claims to which you refer were pending in the office of the Commissioner of Internal Revenue during the incumbency of Hon. J. W. Douglass, and while I was Solicitor. I thought they should be allowed; I still think they should have been. I have recommended the allowance of similar claims which have been allowed and paid. The Commissioner held a different view and directed a rejection, and I made an indorsement upon them to that effect.

Hastily and respectfully, yours,

CHARLES CHESLEY.

THEO. E. DAVIS, Esq.,
1427 F Street NW., Washington, D. C.

In a letter to the Commissioner of Internal Revenue, dated January 17, 1895, found in Senate Report No. 891 of the Fifty-third Congress, third session, appears the following:

The Secretary of the Treasury, Mr. Sherman, in approving similar claims, used the following language:

"Upon full investigation of the facts in the case, the Department is of the opinion that the assessments upon the dividends and interest above mentioned were erroneous, inasmuch as they doubled the tax on the same profits."

The Commissioner also adds:

The aggregate amount of claims named in the resolution is \$34,104.18; the passage of the resolution would not be likely to affect the Treasury in a greater amount than that, and the probability is that when the claimants prove their claims the amount that they will be able to prove will be less than the above.

Your committee, therefore, are of the opinion that the double taxes collected from said claimants were illegal and should have been refunded, and that justice requires that the said claims should be reopened and reexamined by the Commissioner of Internal Revenue, so that he may allow such taxes as shall appear to have been paid by said claimants the second time upon the same identical income.

Your committee, therefore, ask leave to report the accompanying bill, and do recommend its passage.

REVISION OF THE STATUTE LAWS OF THE UNITED STATES.

FEBRUARY 15, 1896.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. BOWERS, from the Committee on Revision of the Laws, submitted the following

REPORT:

[To accompany H. R. 5915.]

The Committee on Revision of the Laws, to whom was referred the bill (H. R. 5915) to provide for the revision and consolidation of the statute laws of the United States, having considered the same, report it back herewith and recommend its passage, amended as follows:

In line 10 of section 2, strike out the word "side."

In lines 14 and 15 of section 2, strike out the words "and also to such decisions of the State courts as they may deem expedient."

In line 8 of section 3, strike out the word "suggest" and insert in lieu thereof the word "report."

The existing revision of the statute laws of the United States was made by a commission authorized by an act of Congress approved June 27, 1866, and when submitted to and accepted by Congress, embraced all laws enacted up to and including March 3, 1873. By the act of March 2, 1877, a second edition of that revision was authorized to include "the text of the first edition of the statutes" and "all the amendments made since the first day of December, eighteen hundred and seventy-three, including those made by the Forty-fourth Congress (to March 2, 1877), with marginal references to the acts of amendment and to the decisions of the several courts of the United States, with like references to all the statutes passed in the same period, which, in the opinion of the commissioner, might in any manner affect or modify any of the provisions of the first edition of the Revised Statutes."

This second edition constitutes the existing code or "Revised Statutes of the United States" and embraces only the statutes of the United States enacted up to March 3, 1873.

The accompanying bill places the work of a new revision practically under the control of the Attorney-General; and it is believed this is a more desirable and effectual method of executing the work than by means of an independent commission.

INDUSTRIAL SCHOOL FOR GIRLS OF ALABAMA.

FEBRUARY 15, 1896.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. UNDERWOOD, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany H. R. 19.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 19) to grant land to the State of Alabama for the use of the Industrial School for Girls of Alabama, have had the same under consideration, and report it back with the recommendation that it pass.

The school for which this grant of lands is intended to establish an endowment fund is situated at Montevallo, in the State of Alabama, and was chartered by the legislature of Alabama. The school was established to give an industrial as well as a classical education to the poor white girls of the State. The pupils are taught stenography, telegraphy, dressmaking, cooking, printing, etc. This is the only school of its kind for the education of girls in Alabama. There are 76,000 girls of educational age in the State, and the tuition is free to all girls. The school has received a donation of 40 acres of land, with a number of buildings situated thereon, and \$9,000 from the citizens of Montevallo, and from the State of Alabama \$5,000 in 1894 and \$10,000 in 1895. The total endowment amounts to \$24,000. The school is in need of assistance, and similar grants have heretofore been made to such schools in other States.

TUSKEGEE NORMAL AND INDUSTRIAL INSTITUTE.

FEBRUARY 15, 1896.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. UNDERWOOD, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany H. R. 4706.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 4706) to grant lands to the State of Alabama for the use of the Tuskegee Normal and Industrial Institute, have had the same under consideration and report it back with the recommendation that it pass.

The school for which this grant of lands is intended to establish an endowment fund is situated at Tuskegee, in the State of Alabama, was chartered by the legislature of Alabama, and organized fourteen years ago. The school was established to give an industrial as well as a classical education to colored boys and girls. There are now about 800 pupils, who are taught agriculture, dairying, and many various trades. The poor pupils are given work to assist them in securing an education. There are twice as many pupils apply for admission as the school is able to admit.

The school now receives \$3,000 per annum from the State of Alabama, \$5,000 from the Slater fund, has an endowment of \$25,000, and the balance necessary for its support is raised by private subscriptions. The annual expenditures amount to \$79,000, and there are 69 instructors. Similar bills have passed Congress in aid of schools in other States.



ADDITIONAL EMPLOYEES, HOUSE OF REPRESENTATIVES.

FEBRUARY 15, 1896.—Ordered to be printed.

Mr. ALDRICH, from the Committee on Accounts, submitted the following

REPORT:

[To accompany sundry resolutions.]

The Committee on Accounts, to whom was referred sundry resolutions, to wit:

1. *Resolved*, That the Clerk be, and he hereby is, authorized and directed to appoint an additional reading clerk, whose term of office, and salary, to be paid out of the contingent fund of the House, shall be the same as that now provided by law for a reading clerk of the House of Representatives.

2. *Resolved*, That the Doorkeeper be, and hereby is, authorized and directed to employ J. Y. Jamieson as special employee, his duties to exchange public documents for Members of the House, at a salary of \$900 per annum, the same to be paid out of the contingent fund of the House.

3. *Resolved*, That the Clerk of the House of Representatives be, and he is hereby, authorized and directed to appoint Fred S. Bishop as assistant clerk in the office which directs the special binding of public documents for the personal use of Members of Congress, at a salary of \$1,600 per annum, to be paid out of the contingent fund of the House until other provision is made therefor.

4. *Resolved*, That the Committee on Banking and Currency be, and is hereby, authorized to employ a stenographer and typewriter, so long as may be necessary, for a period not to exceed three months from the adoption of this resolution, the same to be appointed by the chairman of the committee, subject to the approval of the committee, and to be paid out of the contingent fund of the House, at the rate of \$6 per day.

5. *Resolved*, That the employees of the House of Representatives be paid their salaries semimonthly instead of monthly, the same as the other Departments.

6. *Resolved*, That the Clerk of the House of Representatives be, and he is hereby, authorized to employ E. J. Totten as a clerk, at a salary of \$1,200 per annum, beginning on the first day of January, 1896, and also one skilled laborer, at a salary of \$800 per annum, such salaries to be paid out of the contingent fund of the House of Representatives. The said employees to be assigned to duty in the Clerk's document room of the House, and to attend to the folding, packing, and shipping of the books and documents of the Fifty-second and Fifty-third Congresses, and perform such other duties as may be required.

7. *Resolved*, That the Committee on the District of Columbia be, and is hereby, authorized to employ a stenographer and typewriter, so long as may be necessary, for a period not to exceed three months from the adoption of this resolution, the same to be appointed by the chairman of the committee, subject to the approval of the committee, and to be paid out of the contingent fund of the House, at the rate of \$6 per day.

8. *Resolved*, That the Doorkeeper of the House of Representatives be, and is hereby, authorized to employ fifteen folders during the session, and one month thereafter, at \$75 per month each; and that the Clerk of the House be directed to pay the above employees out of the contingent fund of the House until otherwise provided for.

9. *Resolved*, That the Doorkeeper of the House be, and is hereby, authorized to appoint a superintendent of the ladies' reception room, at a compensation of \$1,200 per annum—

beg leave to report as follows:

The resolution providing for an additional reading clerk is disapproved.

2 ADDITIONAL EMPLOYEES, HOUSE OF REPRESENTATIVES.

The resolution providing for the appointment of J. Y. Jamieson as special employee for the exchange of public documents for Members of the House is disapproved.

The resolution providing for the appointment of Fred S. Bishop as assistant clerk in the office which directs the special binding of public documents for the personal use of Members of Congress is disapproved.

The resolution providing for the payment of salaries to employees of the House semimonthly instead of monthly is disapproved.

The resolution providing for the appointment of E. J. Totten as a clerk, and also one skilled laborer, both to be assigned to duty in the Clerk's document room, is disapproved.

The resolution providing for the employment of fifteen folders during the session, and one month thereafter, is herewith returned with the recommendation that the same be adopted.

Resolutions Nos. 4 and 7 authorize the Committee on Banking and Currency and the Committee on the District of Columbia to each employ a stenographer and typewriter for a period not to exceed three months, at the rate of \$6 per day each.

Your committee are of the opinion that the exigencies of the situation justify it in recommending that a reasonable amount be allowed these two committees for the employment of stenographers for a limited period, and to that end submit the accompanying resolution as a substitute for those presented to it and recommend the adoption of same

○

GILMAN L. JOHNSON.

FEBRUARY 15, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. FENTON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 1499.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 1499) to correct the muster of Second Lieut. Gilman L. Johnson, having examined and considered the same, report the bill back to the House with a recommendation that it do pass.

The following report has been made by the War Department in this matter:

Gilman L. Johnson was enrolled and mustered into service August 28, 1863, as a private in the One hundred and forty-second Regiment, New York Volunteers, and assigned to Company C. His name, however, has not been found on the rolls of that company.

The muster roll of the noncommissioned staff for September and October, 1863, reports him sergeant-major, present, with remark: "Discharged May 22, 1863, as of the Sixteenth New York Volunteers, by reason of expiration of term of service." Subsequent rolls to February 29, 1864, report him sergeant-major, present. The roll for March and April, 1864, reports him sergeant-major, absent, with remark: "Reenlisted as a veteran volunteer;" for May and June, 1864, sergeant-major, present, with remark: "Has performed the duties of first lieutenant since June 13, 1864, by virtue of a commission from governor of New York, dated April 29, 1864, awaiting discharge for muster;" for July and August, 1864, sergeant-major, with remark: "Promoted to first lieutenant July 25, 1864, to date from June 14, 1864."

Gilman L. Johnson was commissioned second lieutenant, and as first lieutenant One hundred and forty-second New York Volunteers, to rank from June 27, 1863, and April 10, 1864, respectively; was mustered into service in the latter grade to take effect from June 14, 1864, and was mustered out and honorably discharged June 7, 1865. He was not mustered into service on his commission as second lieutenant.

In 1889, the claim of Mr. Johnson for recognition as second lieutenant and as first lieutenant Company B, One hundred and forty-second New York Volunteers, from June 27, 1863, and April 10, 1864, respectively, under the provisions of the act approved June 3, 1884, and the acts amendatory thereof, was denied by this Department for the reason that all the companies of the regiment in which there was a vacancy in the grade of second lieutenant were below the minimum number, and therefore not entitled to an officer of that grade; and also that Company B, said regiment, from date of rank of his muster in as such, was below the minimum number, and having two commissioned officers, captain and second lieutenant, was not entitled to an additional officer.

Respectfully submitted,

F. C. AINSWORTH,
Major and Surgeon, United States Army.

Lieutenant Johnson was in the regiment commanded by and then upon the staff of Gen. N. M. Curtis, now a member of this House, and we have a written statement from General Curtis in reference to it and his service, as follows:

Gilman L. Johnson enlisted in the military service of the United States on the 15th day of May, 1861, from the State of New York, for a term of two years; after

serving the full term with the Army of the Potomac, from Bull Run to Fredericksburg, was mustered out with his regiment, the Sixteenth New York Volunteer Infantry, May 22, 1863; that on the 4th day of July, 1863, he was commissioned by Horatio Seymour, governor of New York, a second lieutenant in the One hundred and forty-second Regiment, New York Volunteer Infantry, which regiment was serving in Department of the South, operating on the Sea Islands, about Charleston Harbor, South Carolina.

That said Johnson joined said regiment on or about the 15th day of August, 1863, on a letter from the commanding officer notifying him that his commission awaited him, to join the regiment at once.

That on his joining said regiment it was discovered that the company in which the vacancy existed was below the minimum in numbers, and, that by reason of a late general order in regard to such companies, he could not be mustered in under his commission.

He enlisted as a private in said regiment and was appointed a sergeant, and soon thereafter sergeant-major of said regiment, that being the highest noncommissioned officer in an infantry regiment.

That on the 24th day of February, 1864, while discharging the duties of a commissioned officer on the skirmish line at Johns Island, South Carolina, he received a gunshot wound which necessitated the amputation of his right arm.

That during the most of the time from his enlistment, August 29, 1863, to the time he was wounded, he performed the duties of a commissioned officer on the picket line, with fatigue parties, erecting defenses upon the islands, with exploring details, and in camp.

That upon his recovery from the wound causing loss of his right arm, he rejoined his regiment in front of Petersburg, Va.

On the 18th day of May, 1864, he was commissioned a first lieutenant in the One hundred and forty-second New York Volunteer Infantry, and on the 26th day of July, 1864 (his commission having been on a sunken steamer for some weeks), he was mustered on said commission and placed on the staff of Col. N. M. Curtis, commanding First Brigade, Second Division, Tenth Army Corps, Army of the James, as assistant aid-de-camp; that he was in active service during the sieges of Petersburg and the capture of Fort Fisher, N. C. After the capture of the latter point, January 15, 1865, he was detailed as depot quartermaster at that point till after the close of the war.

N. B. CURTIS,
*Late Colonel, One hundred and forty-second New York Infantry -
and United States Volunteers.*

It will be seen by these documents that Lieutenant Johnson has not only a very honorable record in itself, but that when it appeared that he could not be mustered under his commission, he immediately enlisted at the suggestion of General Curtis, as a private, and did duty continuously, which takes the case out of the rule where we have refused relief because there was no muster by reason of company being below the minimum number. Then, in addition to this, he, most of the time, actually did his duty as commissioned officer, and while doing this very duty lost an arm. There seems to be no reason why, under these circumstances, he should not, in all respects, be entitled to stand as a commissioned officer from the date of his enlistment.

The committee consider this an especially meritorious case, in view of the fact that this soldier enlisted in the ranks, and served gallantly after having been commissioned a lieutenant, in which capacity he could not be mustered because the company to which he had been assigned, and in which the vacancy existed, was below the minimum number.

CALVIN GUNN.

FEBRUARY 17, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. Cox, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 3673.]

The Committee on Claims, to whom was referred the bill (H. R. 3673) for the relief of Calvin Gunn, having had the same under consideration, beg leave to report the same with the recommendation that it pass.

The Senate report on this bill (No. 346), Fifty-third Congress, second session, fully sets forth the facts, and your committee adopts the same and makes it a part of this report:

[Senate Report No. 346, Fifty-third Congress, second session.]

The Committee on Claims, to whom was referred the bill (S. 552) for the relief of Calvin Gunn, have carefully considered the same, and submit the following report thereon:

This case has been before the two Houses of Congress since the Fifty-first Congress, and in each House a favorable report was made by the committee to whom it was referred. During that Congress the bill for Mr. Gunn's relief passed the Senate in substantially the form in which it has been introduced in the Senate, but no final action was taken in the House of Representatives.

The history of this case is given very fully in the accompanying communication from the Secretary of the Treasury after he had investigated it in 1886.

It appears that of the amount due Gunn under the law, the sum of \$700 was actually turned into the Treasury, and has never been paid to the claimant. The bill provides that he receive this, and the former action of the committee was in his favor. It is just that he should receive this amount, and the committee recommend that the bill do pass.

TREASURY DEPARTMENT, *March 5, 1886.*

SIR: I have the honor to acknowledge the receipt of your letter of the 1st instant, inclosing bill (H. R. 5313) for the relief of Calvin Gunn, and requesting that the Committee on Claims be furnished with all information on file in this Department relating to the same. In reply I have to say that it appears from papers on file in this office that on January 5, 1880, two applications were received from Calvin Gunn asking that informers' shares in two cases be paid to him under section 179 of the act of June 30, 1864 (13 Stat. L., 305), as amended by the act of July 13, 1866 (14 Stat. L., 145), which prescribed that the person who should first inform of the cause, matter, or thing whereby a fine, penalty, or forfeiture should be recovered by the Government, should have such share of the same "not exceeding one moiety, nor more than five thousand dollars in any one case," as the Secretary of the Treasury should, by general regulations, provide. Under this authority the Secretary of the Treasury issued a circular, August 14, 1866, in which he prescribed that the share of an informer should be 50 per cent on the first \$500, 40 per cent on the next \$1,500, 30 per cent on the next \$2,000, etc.

The two cases in which Mr. Gunn claimed to be the informer were tried and disposed of in the district court of the United States for the eastern district of Missouri,

at the February term, A. D. 1868, and, as appears by the certificate of the clerk of said court on file in this office, were docketed, as follows:

In case No. 1387 of the United States, ex rel. Calvin Gunn, against 30 barrels distilled spirits and the steamboat *Lyre*, her engines, etc. Information under the internal-revenue laws of the United States.

In case No. 1406 of the United States, ex rel. Calvin Gunn, against 60 gallons distilled spirits et alia. Information under United States internal-revenue laws.

I.

In case No. 1387 the clerk of the court certified that the proceeds of sale amounted to \$3,184.64, and that the costs amounted to \$248.69, leaving \$2,935.95.

"Residue of fund to be paid to Barton Able, esq., collector internal revenue, first district of Missouri, to be distributed by him as required by law, in the proportion prescribed, to the United States and to Calvin Gunn, informer."

This certificate was regarded as satisfactory proof of the fact that said court had ascertained and declared Mr. Gunn to be the informer, as required by said section 179 in cases where a court imposed or decreed a fine, penalty, or forfeiture.

It further appears from the certificate of said clerk that said Barton Able, collector of internal revenue, receipted on April 11, 1868, to the registrar of said court for "the sum of \$2,935.95, being amount of the fine (forfeiture) in the above-entitled case, in accordance with the order of said court made on the 6th day of April, 1868."

It further appears from a statement of the Commissioner of Internal Revenue on file in this office "that Collector Able accounted to the United States for the sum of \$2,505.17, proceeds of sale in case No. 1387 U. S. ex. rel. Calvin Gunn, v. 30 bbls. distilled spirits, et alia." This amount was not deposited to the credit of the Secretary of the Treasury, but to the credit of the Treasurer of the United States, and was carried into the Treasury in the usual manner.

It will be seen that Collector Able received.....	\$2, 935. 95
But deposited only.....	2, 505. 17

Deficiency	430. 78
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What disposition was made of this difference has not been explained. Mr. Able died before Mr. Gunn's application was received. Mr. Gunn has filed his statement that he never received any part of the share due him under the law. His share of the whole amount paid to Collector Able would have been \$1,130.78, and the share of the United States \$1,805.17; total, \$2,935.95.

The whole amount deposited was.....	\$2, 505. 17
Deduct the Government's share	1, 805. 17

The portion of informer's share received by the Government.....	700. 00
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Even that amount was not paid to Mr. Gunn on his application, because the Secretary of the Treasury held as follows:

"TREASURY DEPARTMENT, *January 17, 1880.*

"It being alleged that this claim accrued in 1868, about eleven years before it was presented to this Department, and it not appearing that claimant has been under any disability to prosecute the same, the presumption is that the claim is unfounded or has been satisfied, and it is therefore rejected."

This rejection seems to have been based upon the assumption that by analogy the statute of limitations was applicable. But as a matter of fact there was no such statute governing cases of this kind, and the right of the Secretary to set up a limitation in such cases was subsequently expressly negatived by the Supreme Court of the United States in the case of *Taylor v. United States* (104 U. S., 216).

There is no doubt that the entire amount of the informer's share (\$1,130.78) should have been paid to Mr. Gunn directly by Collector Able. The question now arises whether the Government should pay him any more than it received (\$700) from Mr. Able. On this question I think it hardly necessary for me to express an opinion. I, however, transmit herewith an affidavit made by Mr. Gunn, setting forth the unsuccessful efforts made by him to obtain from Collector Able the amount due him in this case.

II.

In case No. 1406 the clerk of the court certified that the proceeds of sale amounted to	\$1, 096. 69
And that the costs, etc., amounted to	643. 90

Leaving	452. 79
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"Residue ordered to be paid to Barton Able, esq., collector internal revenue first district of Missouri, to be by him distributed to the use of the United States, and to Calvin Gunn, informer herein, in the proportions as prescribed by law."

It further appears, from the certificate of said clerk, that said Barton Able, collector of internal revenue, receipted on the 17th day of June, 1868, to the registrar of said court for "the sum of \$452.79, being the amount of the residue of fine (forfeiture) in the above-entitled case, in accordance with the order of said court, made on the 16th day of June, 1868."

It further appears, from a statement of the Commissioner of Internal Revenue, on file in this office, that said Barton Able "accounted to the United States for its share (\$226.39) of the proceeds in case No. 1406 U. S. Ex. rel. Calvin Gunn v. Sixty Gallons Distilled Spirits." What disposition was made of the other half of the sum received by Mr. Able in this case under the order of the court has not been explained, though Mr. Gunn alleged in his application that he had "never received or been paid any portion of the moiety due him in said case as informer." Mr. Gunn's claim in this case was not allowed by the Secretary, because only the share of the Government had been deposited with the United States Treasurer.

In connection with this point I would refer the committee to the language of said section 179, which says "that no right accrues to or is vested in any informer in any case until the fine, penalty, or forfeiture in such case is fixed by judgment or compromise, and the amount or proceeds shall have been paid, when the informer shall become entitled to his legal share of the sum adjudged or agreed upon and received."

In this case the proceeds were paid into court, and by order of the court to the collector of internal revenue. Whether the money should have been placed in the Treasury, or to the credit of the Secretary, in order to fix the liability of the Government to pay the informer his share, is for the committee to decide.

Respectfully, yours,

D. MANNING, *Secretary.*

Hon. WM. WARNER,
Committee on Claims, House of Representatives.

H. Rep. 2—21



CLAIMS FOR DAMAGES TO PROPERTY OF CERTAIN CITI-
ZENS OF CHICAGO, ILL.

FEBRUARY 17, 1896.—Committed to the Committee of the Whole House and ordered
to be printed.

Mr. HULL, from the Committee on Military Affairs, submitted the
following

REPORT:

[To accompany H. R. 3562.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 3562) for the relief of persons who sustained damages by the explosion of an ammunition chest of Battery F, Second United States Artillery, July 16, 1894, have fully considered the same and recommend that it do pass.

The letter of the Secretary of War of January 3, 1895, is made a part of this report.

Senate Ex. Doc. No. 21, Fifty-third Congress, third session.

LETTER

FROM

THE SECRETARY OF WAR,

TRANSMITTING

A report upon the damage resulting from the explosion of an ammunition chest of Battery F, Second United States Artillery, at Chicago.

JANUARY 4, 1895.—Referred to the Committee on Claims and ordered to be printed.

WAR DEPARTMENT,
Washington, D. C., January 3, 1895.

SIR: I have the honor to transmit herewith the proceedings of a board of officers convened by Special Orders, No. 72, Headquarters Department of the Missouri, July 17, 1894, to investigate and report upon the damage done to the property of the citizens of Chicago, Ill., by the explosion of an ammunition chest of Battery F, Second United States Artillery, in the vicinity of Grand Boulevard, on July 16, 1894.

The estimates of damage passed by the board are itemized and aggregate \$15,845.23, which sum Major-General Miles recommends be appropriated by Congress, and in this recommendation the Major-General Commanding the Army concurs.

Very respectfully,

DANIEL S. LAMONT,
Secretary of War.

The PRESIDENT OF THE UNITED STATES SENATE.

PROCEEDINGS OF A BOARD OF OFFICERS CONVENED AT CHICAGO, ILL. PURSUANT TO THE FOLLOWING ORDERS:

SPECIAL ORDERS, }
No. 72. }

HEADQUARTERS DEPARTMENT OF THE MISSOURI,
Chicago, Ill., July 17, 1894.

[Extract.]

3. A board of officers, to consist of Col. Judson D. Bingham, assistant quartermaster-general; Col. Edward M. Heyl, inspector-general; Maj. Stephen W. Groesbeck, judge-advocate, will meet at such time as the president of the board may determine, to investigate and report upon the damage done to property of the citizens of Chicago, by the explosion of an ammunition chest of Light Battery F, Sec-

ond Artillery, in the vicinity of Grand Boulevard and Fortieth street, on the 16th instant. The board will submit an estimate of the cost necessary to repair the damages.

By command of Major-General Miles.

J. P. MARTIN,
Assistant Adjutant-General.

Official:

F. MICHLER, *Aide-de-Camp.*

CHICAGO, ILL., July 18, 1894.

The board met pursuant to the foregoing order.

All the members being present, the board proceeded to the scene of the explosion of the ammunition chest of Light Battery F, Second Artillery, which occurred on the 16th of July, 1894, at the intersection of Grand and Oakwood boulevards, between Thirty-ninth and Fortieth streets, Chicago, Ill., and at once commenced to make a personal survey of all the residences in the immediate vicinity of the explosion. The notes taken by the board are copied with this report.

Whenever the words "ceiling and side walls" are hereinafter used, reference is made to the plastering and not to masonry or woodwork.

Having completed its personal survey of the damaged buildings, the board next addressed the following letter to the owners thereof:

HEADQUARTERS DEPARTMENT OF THE MISSOURI,
Chicago, Ill., August 1, 1894.

The board of officers convened by orders from these headquarters for the purpose of estimating the amount of damage done to private property by the explosion of an ammunition chest of Light Battery F, Second Artillery, on the 16th ultimo, beg leave to request that you will assist it in arriving at a fairly reliable estimate of such damage by mailing to the undersigned, by the 15th instant, the original bills paid by you for damages done by said explosion to your house and premises. Please also to submit estimates of the cost of such repairs as, on the 15th instant, remain to be made. After the board has listed your bills they will be returned to you.

Very respectfully,

S. W. GROESBECK,
Major and Judge-Advocate, United States Army, Recorder of the Board.

Replies to this letter were in many instances greatly delayed.

Where no remarks are made by the board following the estimates submitted by the owners of property, the estimate is, in the opinion of the board, reasonable and capable of close verification.

Where items, in the opinion of the board, are excessive in amount, such excess is estimated and deducted from the total estimates submitted by the owners.

RESIDENCE NO. 3938 GRAND BOULEVARD, P. J. RYAN OWNER.

PRELIMINARY SURVEY BY THE BOARD.

This is a very large stone and brick house with open spaces on all sides. Nearly all windows in front, some large and very heavy plate glass and stained glass, broken. In all twenty-four large and small windows broken in. Only here and there a pane of glass left unbroken. Plate-glass panels to front door broken in. Plastered and frescoed walls inside shaken and checked in places. Furniture marred. Fine lace hangings at front windows badly torn. One quite large Satsuma vase and several smaller pieces of bric-a-brac broken by being blown from their supports to the floor.

Exterior of house defaced in places by flying projectiles.

Bills rendered but not receipted, exhibited to the board:

To repairing roof (this bill marked paid).....	\$10.00
Lumber, time, and hardware (this bill marked paid).....	5.00
To calk and point all window and door frames.....	40.00
Plastering.....	30.00
Vestibule lamp, bracket, and 3 globes.....	24.00
Labor and material.....	15.00
Curtains (purchased from Tobey Furniture Company, 1891)....	305.00
49 shades.....	37.00
Glass (bill of George F. Kimball & Co.).....	245.00
Leaded lights (bill of George E. Androvette & Co.).....	144.00
Fancy vase, bisque bust, oil portrait.....	137.00
	\$992.00

Estimate submitted by tradesmen of work yet to be done:

Labor and material.....	420.00
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Total.....	1,412.00
Item "Curtains," \$305, excess.....	105.00

Estimate passed by the board.....	1,307.00
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RESIDENCE No. 3932 GRAND BOULEVARD, CHARLES R. CAVE
OWNER.

PRELIMINARY SURVEY BY THE BOARD.

Glass broken.—One very large plate-glass window, 4 large plate-glass windows, 1 plate-glass panel in vestibule door, 9 double-thick windows, 3 basement half-sash windows.

Many window shades ruined; lace and silk hangings to windows torn badly; plastering of interior walls cracked, much damaged; stone steps to entrance, and large newel post shattered.

Bills paid and rendered for repairs accomplished:

J. Eck, glass.....	\$38.56
Flanagan & Biedenweg, bevel plate door lights.....	19.00
Flanagan & Biedenweg, reglazing and resetting glass.....	25.00
J. H. Angold, carpenter work.....	7.00
J. H. Angold, carpenter work.....	20.45
Geo. B. Weise & Son, two pairs doors, etc.....	55.20
Yale & Town Manufacturing Co., hardware.....	2.50
F. R. Bagley & Co., copper and galvanized ironwork.....	19.55
J. Foley, slating.....	5.00
C. R. Cave, for window shades.....	45.00
Aug. Walther, calking and pointing window frames.....	17.00
Brunt Bros., plumbers.....	63.35

Total.....	\$317.61
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Estimates by tradesmen of repairs yet to be made:

W. H. Hackett, glass.....	125.00
Watson Stone Co., labor and material.....	250.00
W. H. Hackett, redecorating and replastering.....	750.00

Total.....	1,125.00
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Estimate by owner of repairs yet to be made:

Door handle and spring.....	10.00
For deck over porch.....	50.00
3 pairs lace curtains cut by glass, worthless.....	150.00
1 pair in library.....	25.00
3 pairs in front bedroom.....	45.00
3 pairs on third floor.....	54.00
2 pairs in basement.....	9.00
Draperies cut and damaged, worthless; cost, \$600.....	400.00
300 yards carpet, cleaning and laying, at 15 cents a yard.....	45.00
1 umbrella stand broken.....	10.00

Total.....	798.00
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Grand total.....	2,240.61
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Item, W. H. Hacket, redecorating and replastering, \$750; excess.....	\$250. 00
Item, 3 pairs lace curtains, \$150; excess.....	50. 00
Item, draperies cut and damaged; cost \$600; exc e.....	100. 00
	<u>\$400. 00</u>
Estimate passed by the board	1, 840. 61

RESIDENCE No. 3930 GRAND BOULEVARD, EDWARD C. HULING
OWNER.

PRELIMINARY SURVEY BY THE BOARD.

Glass broken.—One very large plate-glass window, 3 large plate-glass windows, 2 half-sash basement windows.

Tables in front room marred, 1 china lamp broken, window shades ruined, silk and lace hangings badly damaged, ceiling and side wall plastering in parlor and hall shaken badly, back parlor wall plastering in parlor and hall shaken badly; rooms on other floors show some damage to plastering; men engaged repairing slate roof; screen door broken.

Bills paid and rendered, exhibited to board:

Geo. F. Kimball, reglazing.....	\$56. 50
Hynes Bros., fixing screens and putting up	11. 00
J. H. Angold, work done on day of explosion.....	3. 50
J. H. Angold, repairing window and door casings.....	6. 00
Jas. Prendergast, fixing roof	6. 00
Marshall Field & Co., shades.....	16. 26
	<u>\$99. 26</u>

Estimate of other damages:

J. A. Linker & Bro., repairing ceiling and walls	\$835. 00
By owner, pier glass in parlor.....	50. 00
By owner, wood mantel in front room, second floor	10. 00
By owner, marble slab in bath room.....	8. 00
By owner, repainting window frames in front of house	7. 50
By owner, lace curtains on second floor.....	12. 00
By owner, screens	20. 00
By owner, lamps broken, one cost \$4 the other \$12	16. 00
By owner, some cut glass and other glass, cost \$14 or \$15	14. 00
By owner, several globes.....	3. 50

Total..... 976. 00

Grand total..... 1, 075. 26

Item J. A. Linker & Bro., repairing ceiling and walls \$835, excess..... 335. 00

Estimate passed by the board..... 740. 26

RESIDENCE No. 3928 GRAND BOULEVARD, JACOB R. CUSTER OWNER.

PRELIMINARY SURVEY BY THE BOARD.

Glass broken.—One very large plate-glass window, 3 large plate-glass windows, panel of plate glass to front door, 7 double-thick glass windows.

Three thread lace curtains badly torn; window shades ruined; screen door broken; plastering in vestibule shaken down in places; ceiling and side wall plastering in parlor shaken down in places; same in back parlor; front room in second story, ceiling fallen badly, plastering on side walls cracked; in third story, plastering cracked.

Repair bills paid exhibited to board:

July 31.	Paid George F. Kimball, glass	\$76. 00
18.	Charles Vivian, gas fitting	. 75
Aug. 1.	T. F. Strong, carpenter	16. 90
July 19.	J. P. Prendergrast, roofer.....	5. 25
23.	Burley & Co., 2 cups and saucers.....	3. 00

Repair bills paid exhibited to board—Continued.

July 23.	Paid Western Decorating Works	\$1.50
	Pitkin & Brooks, 6 finger bowls.....	1.70
18.	Woman for cleaning floor	1.50
	Man for cleaning floor.....	2.00
23.	Gas globe.....	.50
	Two gas globes	1.50
Aug. 25.	Lathrop, for four weeks watching house day and night.....	48.00
	Man for washing floors and moving furniture....	5.00
	For plastering	375.00
		\$538.60

Estimate of cost of repairs yet to be made:

For scraping and polishing 2 tables and 1 chair (mahogany), cut by falling window glass.....	25.00
For scraping and polishing window sills, cut by falling window glass	20.00
For 12 window shades for front windows.....	14.23
For setting marble slabs at washbowls and bathrooms	15.00
For cleaning house and furniture.....	50.00
For repairing ornamental glass (front) door	5.00
For scraping and polishing hard-wood floor in parlor.....	50.00
	179.23
Total.....	717.83

RESIDENCE NO. 3926 GRAND BOULEVARD, HERMAN LEHMAN OWNER.

PRELIMINARY SURVEY BY THE BOARD.

Glass broken.—Plate-glass panels to front door, 2 very large glass (plate) windows, 5 large plate-glass windows, 1 transom plate glass over vestibule door, 3 double-thick windows, 2 basement half-sash windows.

Lace curtains in front parlor badly torn. Shades to all windows ruined. Ceiling and side wall plastering in parlor and hall badly shaken and fallen in places. Ceiling and side walls in front rooms, second and third floors, cracked badly. Marble slab in bathrooms thrown out of place.

Bills paid and rendered, exhibited to board:

Mandel Bros., shades.....	\$49.17
F. F. Strong, labor and material	11.40
George F. Kimball & Co., reglazing	116.00
Jas. P. Prendergast, repairing roof.....	6.00
	\$182.57

Other damages estimated:

Decorator, two-thirds of \$858.....	572.00	
Two pairs lace curtains.....	75.00	
		647.00
Total.....		829.57

RESIDENCE NO. 3924 GRAND BOULEVARD, HERMAN GROSSMAN OWNER.

PRELIMINARY SURVEY BY THE BOARD.

Glass broken.—Seven plate-glass windows, 4 double-thick windows, 3 basement half-sash windows, 2 plate-glass panels to front door.

Plastering on ceiling and side walls of front parlor cracked and shaken. Window shades torn. Second floor front room, window shades ruined and lace curtains torn. Marble slabs in bathroom broken.

Paid bills exhibited to the board:

Geo. F. Kimball Company, replacing broken glass..... \$125.00

Damage estimated by owner:

Replacing shades..... \$30.00
 Replacing woodwork..... 175.00
 Plastering..... 60.00
 Decorating..... 175.00
 Screens..... 50.00
 Marble work..... 50.00
 Imported stationary wash bowl..... 20.00
 Repairing slate roof..... 50.00
 Damage to carpets..... 125.00
 Damage to lace curtains..... 100.00

Total..... 835.00

Total..... 960.00

Items, replacing woodwork, \$175, excess..... 100.00

Items, damage to carpets, \$125, excess..... 75.00

Items, lace curtains, \$100, excess..... 20.00

190.00

Estimates passed by the board..... 770.00

RESIDENCE NO. 3933 GRAND BOULEVARD, PHILIP W. RABER OWNER.

PRELIMINARY SURVEY BY BOARD.

Glass broken.—Eleven large double-sash plate glass, 25 plate-glass windows, 35 double-thick windows.

The walls (brick) showed considerable defacement from fragments of projectiles. Woodwork scarred.

First floor: Ceiling in parlor badly cracked; side walls same. Silk hangings to windows: Some torn, and all badly soiled with dust, smoke, and oil. Large porcelain lamp broken. Window casing jarred from the walls more or less. Room back of parlor: Window shades ruined, window casing forced from walls and broken, ceiling and side walls of room cracked. Large main hall shows but little apparent damage.

Hallway ascending to second floor shows woodwork shaken considerably; plastering fallen in places. Bathroom, second floor: Door blown in, carrying with it the door casing. Casing to door of closet off dressing room badly cracked. Ceiling of dressing room and side walls cracked. Main front room: Window casings strained from position and ceiling cracked; side walls apparently sound. Room back of front room showed ceiling and side walls cracked and the casing to windows sprung. Third rooms back, no apparent damage. Stairway leading to third story sprung by vibration of exterior wall from place. Plastering on ceiling and side walls shaken. Ballroom, large, with high ceiling: Plastering of ceiling and side walls very badly cracked and loosened.

Paid bills exhibited to board:

Bill of Henry Palmer for cleaning walls and carpet..... \$53.75

Bill of Love & Longfield for labor and material..... 134.56

\$188.31

Estimates of damage to residence:

Bill of J. H. Rice & Co., reglazing..... 160.00

Bill of Ed. Kirk, jr., repairing roof..... 12.00

Estimate Watson Stone Co., for replacing damaged brick and stone work..... 179.00

Replacing oakum around windows, repairs to hot-air pipes, down spouts, etc., and repainting new carpenter work..... 25.00

Estimate W. H. Hackett, replastering and redecorating..... 815.00

1,199.00

Estimate of damage to furniture:

1 majolica stand, lamps, books, broken.....	\$75.00	
Cleaning carpets.....	32.40	
Taking up carpets, beating out broken glass, and relaying.....	16.20	
Cleaning draperies.....	25.00	
Damage to covering of silk divan in reception room.....	25.00	
Bill of M. E. Sibley, portieres, silk and lace curtains, etc.....	480.00	
Bill of Marshall Field & Co., shades.....	61.08	
		\$714.68
Total.....		2,093.99
Item, estimate W. H. Hackett, \$815; excess.....	115.00	
Item, bill of M. E. Sibley \$480; excess.....	130.00	
		245.00
Estimate passed by the board.....		1,848.99

RESIDENCE No. 3933 GRAND BOULEVARD, PHILIP W. RABER
OWNER; F. A. DEVLIN, OF CARSON, PERIE & SCOTT, LESSEE.

Estimate by Mr. Devlin of damage done to his personal property:

1 pedestal.....	\$100.00	
1 crayon painting.....	25.00	
1 parlor lamp.....	35.00	
		\$160.00

RESIDENCE No. 3923 GRAND BOULEVARD, SAMUEL B. FOSTER OWNER.

PRELIMINARY SURVEY BY THE BOARD.

Glass broken.—Seventeen plate glass windows, colored glass transom, 4 single-sash basement windows, 23 double-sash windows, common or double thick glass, 4 single-sash stable windows.

Wooden porch strained away from foundations, wire screen door broken; parlor walls plastering cracked, shades to windows ruined, and thread lace curtains torn badly; front room second story, plastering cracked and shaken; papering broken through in places; hall in rear, plastering cracked; third story, billiard-room ceiling falling in places; room back of billiard room, plastering cracked and shaken.

Contractor's estimate of damage to premises:

Decorating.....	\$950.00	
Plastering.....	120.60	
Mantels and resetting tiles.....	35.40	
Painting.....	75.70	
Repairing roof.....	27.50	
Repairing doors and windows.....	127.30	
Front porch.....	450.00	
Glass.....	121.50	
Window and door screens.....	180.50	
		\$2,088.50

Owner's estimate of damage to house furnishings:

To 33 window shades (all ruined).....	26.00	
To 8 pairs window lace curtains.....	300.00	
		326.00
Total.....		2,414.50

Item, decorating, \$950; excess.....	250.00	
Item, repairing doors and windows, \$127.30; excess.....	50.00	
Item, front porch, \$450; excess.....	225.00	
Item, window and door screens, \$180.50; excess.....	90.00	
Item, 8 pairs lace curtains, \$300; excess.....	100.00	
		715.00
Estimate passed by the board.....		1,699.50

RESIDENCE No. 3925 GRAND BOULEVARD, AMELIA H. DODGE OWNER.

PRELIMINARY SURVEY BY BOARD.

Front porch (wood) badly wrecked; inner front door blown in, carrying casing with it; plate glass panels of door broken; plastered ceiling and side walls of vestibule wrecked; 1 very large plate-glass window broken; 4 small plate-glass windows broken; 1 oval window glass broken; 10 double-thick and common windows broken; 3 basement windows (half sash) broken; parlor ceiling broken in places and badly cracked along side walls; furniture marred and broken; thread lace curtains to front windows damaged and torn; tete-a-tete set broken; carpets saturated with oil from broken lamp; ceiling in second story front room cracked; ceiling in third story front room badly broken and in places fallen.

No paid bills.

Owner's estimate of damage done:

Plastering and decorating.....	\$200.00
2 sash curtains.....	16.00
2 pair real lace curtains.....	80.00
Curtain poles.....	5.00
1 rosewood table.....	20.00
Lamp.....	10.00
Card tray.....	6.00
Bric-a-brac.....	25.00
Window sash.....	5.00
Carpet.....	75.00
Damage to grill work.....	10.00
Reception hall:	
Plastering and decorating.....	300.00
One pair of curtains.....	15.00
Tete-a-tete set and bric-a-brac.....	25.00
Chair.....	10.00
Repairs to gas fixtures.....	10.00
Stained glass in stairway.....	75.00
Vestibule:	
Plastering and decorating.....	25.00
Floor tile.....	25.00
Repairs to doors and fixtures.....	30.00
Wooden porch, with slate roof, complete wreck.....	200.00
Front room, second floor:	
Plastering and decorating.....	150.00
Window sash.....	5.00
2 pairs curtains.....	30.00
2 sash curtains.....	16.00
Second room, second floor:	
Plastering and decorating.....	125.00
2 pairs curtains.....	10.00
Damage to mantel.....	30.00
Front room, third floor:	
Plastering and decorating.....	100.00
Replacing window glass.....	87.84
Painting, polishing, and varnishing of interior woodwork.....	200.00
Screens.....	25.00
Awnings.....	25.00
Window shades.....	25.00
Repairing brickwork on house.....	100.00
Total.....	\$2,095.84
The several items for plastering and decorating are deemed to be in excess.....	425.00
Item, "carpet," \$75; excess.....	25.00
Item, painting and polishing woodwork, \$200; excess.....	100.00
Item, repairing brick work, \$100; excess.....	50.00
Total.....	600.00
Estimate passed by the board.....	1,495.84

RESIDENCE No. 3931 GRAND BOULEVARD, FREDERICK A. HOWE
OWNER.

PRELIMINARY SURVEY BY THE BOARD.

Glass broken.—Eighteen plate-glass windows, 1 oval plate glass, beveled plate-glass door in vestibule, 12 double-thick windows, 11 half-sash basement windows, 1 window (common) in stable.

Vestibule ceiling and side walls wrecked; parlor ceiling and side walls badly cracked and shaken; oak finishings above windows broken in places, brass rods bent and broken, lace and silk window hangings torn badly; stairway leading to second story badly shaken; back parlor ceiling and side wall plastering shaken; library in rear same; ceiling in dining room badly shaken and fallen in places; side walls cracked.

Second floor.—Front room, ceiling to this room cracked badly all around, as if its entire area had been lifted; silk and muslin hangings to windows badly torn; room in rear shows but little damage; a few cracks; third room back, but slight damage to plastering.

Third floor.—Two window sash blown in; plastering to ceiling and side walls cracked slightly, paper, however, hides the damage; hall ceiling cracked; room back of front room, plastering of ceiling and side walls badly fallen; ceiling in basement rooms shaken down in places; water pipes blown off of side of house and chimneys damaged.

Bills paid and rendered, exhibited to board:

Love & Longfield, material.....	\$18.58
H. G. Bates, cleaning and repairing two clocks.....	3.50
Geo. F. Kimball, reglazing.....	156.50
E. Kirk, jr., repairing roof and conductor.....	20.00
A. E. Frear, plastering, calcimining, painting, etc.....	30.00
Mandel Bros., shades made and hung.....	27.83
F. F. Strong, material and labor.....	34.65
	\$291.06

Other damages estimated:

A. E. Frear, plastering and calcimining.....	85.00
Chas. E. Conover, papering and decorating.....	400.00
Repairing awnings.....	6.00
Labor, cleaning up.....	16.00
Painting window sash and frames.....	25.00
Damage to lace curtains.....	45.00
Damage to draperies.....	25.00
	602.00

Total..... 893.06

RESIDENCE No. 3917 GRAND BOULEVARD, HELEN PALMER OWNER.

PRELIMINARY SURVEY BY THE BOARD.

Windows broken.—One large plate-glass window, 2 double sash plate-glass windows, 2 stained-glass panels to vestibule door, 2 stained-glass windows in hall, six double-thick windows.

Front porch shaken from place; ceiling in vestibule and side walls cracked and shaken; hall ceiling cracked; ceiling and side walls in parlor cracked badly; library ceiling and side walls badly shaken; drapery to windows not injured; room back of library, plastering on dividing wall shaken and cracked; paper in rear room shaken loose from ceiling.

Second floor.—Ceiling and side walls to front rooms cracked and shaken; door to closet forced out of position; ceiling of 2 closets shaken down, room back; ceiling and side walls cracked badly, and

ceiling to hall cracked and shaken; third room back, partition wall shaken.

Third floor.—Hall plastering fallen from ceiling in places; front room plastering cracked; closet of hall, ceiling of side wall plastering badly fallen; 2 bed rooms, ceiling and side walls shaken.

Bills paid and rendered exhibited to board:

Bill of Haglund & Swanson, plastering	\$29.50	
George F. Kimball, glass	27.25	
Flanagan & Beidenweg, art glass replaced	40.00	
Love & Longfield, carpenter work	3.00	
Clearing and removing plaster.....	2.00	
		\$101.75

Estimates by tradesmen and owner of work, etc., yet to be done:

George Parker, plastering, repainting, general repairing...	1,500.00	
Miscellaneous carpenter and mason work.....	15.00	
W. P. Nelson Co., repapering.....	310.00	
Window shades	25.00	
Gas globes broken	5.00	
Removing, relaying, and cleaning carpets	90.00	
Cleaning floors, windows, woodwork, etc	45.00	
Repairing lawn.....	25.00	
Rent of house for three rooms, during progress of repairs..	600.00	
Miscellaneous damage owing to delay	411.27	
Loss for rent of room, damaged	24.00	
		3,050.27

Total..... 3,152.02

Item, George Parker, plastering, etc., \$1,500, excess	1,000.00	
Item, W. P. Nelson Co., repapering, \$310, excess	100.00	
Item, removing, relaying, and cleaning carpets, \$90, excess.....	45.00	
Item, repairing lawn, \$25, excess	25.00	
Item, rent of house, \$600, excess	600.00	
Item, miscellaneous damage, etc., \$411.27, excess.....	411.27	
Item, loss of rent of room, \$24, excess	24.00	
		2,205.27

Estimate passed by board 946.75

RESIDENCE NO. 3921 GRAND BOULEVARD, JAMES WRIGHT OWNER.

PRELIMINARY SURVEY BY BOARD.

Glass broken.—One very large plate-glass window, 1 stained-glass transom, 8 feet long, across top of front window; 2 long, narrow, stained-glass windows; 1 stained-glass transom over door, 1 plate-glass panel to door, 5 plate-glass windows, 1 very large double-thick window, 11 double-thick windows, 2 basement windows, single sash.

Porch thrust from front walls, strained and broken; parlor ceiling cracked badly; jardiniere broken; small vase broken; lace curtains, costly, badly torn, spoiled; room back of parlor, little damage to plastering; third room back and dressing room off of it slightly damaged in ceiling; kitchen ceiling cracked; electric bell jarred from place; ceiling to front hall badly broken.

Second floor.—Hall ceiling cracked slightly; lace curtains to windows in front room damaged, torn and soiled; rooms back show but little damage to walls.

Third floor.—Front window casing separated from walls; ceiling and side walls cracked; side room off hallway, ceiling damaged slightly; rear rooms show some damage to ceiling and side walls.

Contractor's estimate of damage to premises:

Plaster	\$125.00	
Stained glass	122.00	
Foundation	25.00	
Stone, front of house	110.00	
Stone steps at sidewalk	10.00	
Front porch	75.00	
Carpenter work—windows, doors, and mantels	40.00	
Mantel tiles	10.00	
Iron cresting on roof	8.00	
Painting, calcimining, paper	263.50	
Plate glass	123.00	
		<u>\$911.00</u>

Owner's estimate of damage to furniture:

Shades	23.93	
Lace curtains in front parlor	60.00	
Lace curtains in back parlor	25.00	
Lace curtains in front chamber	25.00	
1 large vase	14.00	
1 small vase	2.00	
Salad dish in china closet	1.75	
Lamp in back parlor window	10.00	
Crockery broken in butler's pantry	5.00	
Pictures injured	15.00	
Onyx table	20.00	
Awnings torn and cut with glass	35.00	
Palms and rubber plants	10.00	
Glass globe in hall	5.00	
Carpet cut, parlors	150.00	
		<u>402.18</u>

Grand total	1,313.68
Item, carpet cut, \$150; excess	100.00
Estimate passed by board	<u>1,213.68</u>

RESIDENCE NO. 3915 GRAND BOULEVARD, W. H. GODAIR OWNER.

PRELIMINARY EXAMINATION BY BOARD.

Glass broken.—Plate-glass panel windows to front door, 2 very large glass windows, 5 double-thick windows, 3 single-sash basement windows.

Two large window shades ruined; plastering, but little apparent damage.

No bills submitted.

Estimate of damage by owner:

To 1 light (plate glass)—

49 by 49	\$21.40
60 by 60	24.20
27 by 53	17.10
32 by 32	12.65
32 by 40	12.20
24 by 38	11.60
18 by 32	9.09
31 by 60	15.80
36 by 40	11.30

Total	135.54
Curtains damaged and replaced by new ones	13.00
Awning destroyed	10.00
Estimated damage on account of cracks in wall and plaster	150.00
Grand total	308.54
Item, estimated damage on account of cracks in wall and plaster, \$150; excess	50.00
Estimate passed by the board	<u>258.04</u>

RESIDENCE No. 3913 GRAND BOULEVARD, J. M. MORRISON OWNER.

SURVEY BY THE BOARD.

Glass broken.—One large plate-glass window, 3 double-thick windows, 2 basement windows, single sash.

Bills and estimate submitted by Simon N. Silverman, lessee, and accepted by Mr. Morrison as just for his account:

9 lights of glass.....	\$36.90
Window shades.....	3.37
6 chandelier globes.....	4.50
Labor.....	3.00
Total.....	47.77

RESIDENCE No. 3911 GRAND BOULEVARD, Mrs. J. E. ELLEN OWNER.

SURVEY BY THE BOARD.

Two plate-glass windows and one basement window broken; estimate passed by the board..... \$25.00

Mrs. Ellen stated to the board that she preferred no claim.

RESIDENCE No. 387 OAKWOOD BOULEVARD, W. M. MORRILL OWNER.

PRELIMINARY SURVEY BY BOARD.

Plastering fallen in front room on first floor; a few pieces of glass broken; no plate glass broken.

Estimate by owner, from..... \$50.00 to \$150.00
Estimate passed by the board..... 50.00

RESIDENCE No. 389 OAKWOOD BOULEVARD, SILAS H. FINCH OWNER.

PRELIMINARY SURVEY BY BOARD.

Damage seemingly confined to broken windows. Could not get entrance to building.

Bills paid and exhibited to board:

To furnishing and setting glass..... \$15.09
Repairing three windows..... 1.80

Total..... 16.89

Other damages estimated by owner:

Two days' carpenter work..... 6.00
Drayage..... .50
2 new wire webbing for large screen..... 2.00
1 pair lace curtains..... 15.00
2 pairs chamber curtains..... 10.00
Sash curtains and shades..... 4.00

Grand total..... 54.39

RESIDENCE No. 378 OAKWOOD BOULEVARD, HAZLETINE OWNER;
DAVID MAYER LESSEE.

PRELIMINARY SURVEY BY BOARD.

Two windows broken in; looking-glass broken.

Estimate by D. Mayer, lessee:

1 looking-glass demolished; door locks and window glass..... \$60.00
Estimate passed by the board..... 45.00

RESIDENCE No. 382 OAKWOOD BOULEVARD, NEWTON MORGANROTH
OWNER.

PRELIMINARY SURVEY BY BOARD.

Two panes of glass broken.

Paid bills exhibited to board:

3 sashes and 7 plate-glass windows; fixing 4 locks and carpenter work on doors.....	\$70.00
Estimate by owner of damage remaining to be done	150.00
Total	220.00
Item, estimate by owner, etc., \$150; excess	95.00
Estimate passed by the board	125.00

RESIDENCE No. 380 OAKWOOD BOULEVARD, J. A. KRUSE OWNER;
MRS. H. H. STEPHENS LESSEE.

PRELIMINARY SURVEY BY BOARD.

Four windows, double-thick glass, broken.

Bill exhibited to the board for replacing same..... \$12.55

These repairs were paid by H. N. Stephens, lessee.

RESIDENCE No. 377 OAKWOOD BOULEVARD, JOHN W. BYERS
OWNER.

PRELIMINARY SURVEY BY BOARD.

Two panes of stained window glass and 2 panes of glass set in side panels of the front door casing, broken.

Report of injury to leg of son of Mr. Byers by the explosion while riding on bicycle.

Bills paid and rendered exhibited to board:

Harry Allen, window lights	\$9.08
Medical attendance to son.....	17.00
Druggist	1.25
Other damages estimated by owner:	
Boarding up windows temporarily	1.00
Bicycle.....	75.00
Hat	2.00
Total.....	105.33

RESIDENCE No. 386 OAKWOOD BOULEVARD, EDWARD D. MURRAY,
JR., OWNER.

PRELIMINARY SURVEY BY BOARD.

Twenty-six large double-thick panes of glass and 12 small basement window glass, broken. Window hangings had been removed. Shades to windows cut badly—ruined.

Paid bills exhibited to board:

S. W. Osborn, repairs.....	\$8.00
T. J. Manning, reglazing.....	62.00
Estimated cost of replacing shades by owner	30.00
Total.....	100.00

The following claims are for damages to residences near the vicinity of the explosion, but not brought to the attention of the board until too late to make a personal survey of any value:

RESIDENCE No. 373 OAKWOOD BOULEVARD, ARTHUR W. ALLEN
OWNER.

Furnishing and setting glass	\$4.50
Replacing broken slate	54.65
Copper and cost of putting on roof	28.34
Damage to stained-glass windows, estimated	25.00
Damaged ceilings	15.00
Total	127.49
Item, copper and cost of putting on roof not a proper charge	28.34
Estimate passed by board	99.15

RESIDENCES 350, 352, 354, 356, and 360 OAKWOOD BOULEVARD,
WASHINGTON SMITH ESTATE, EMILIE J. SMITH, TRUSTEE.

Broken windows..... \$19.00

RESIDENCE No. 264 THIRTY-NINTH STREET, T. A. KEENE OWNER.

ESTIMATE OF REPAIRS BY CONTRACTOR.

Replastering two bedrooms, tinting same and replacing broken windows ..	\$160.00
Estimated excess	110.00
Estimate passed by board	50.00

RESIDENCE No. 3967 VERNON AVENUE, HANNAH SULLIVAN OWNER.
(Vacant.)

Bills rendered for damages:	
Glazing	\$30.00
Watchman	20.00
Total	50.00
Item, watchman, \$20; excess	10.00
Estimate passed by board	40.00

ARMORY WAREHOUSE Co., Nos. 239 TO 245 E. THIRTY-NINTH STREET,
W. L. JOHNSON, PRESIDENT; C. H. RITTER, TREASURER.

Bill rendered for two broken windows..... \$18.00

HOUSES 3966, 3968, 3970, AND 3976 VERNON AVENUE, W. F. HORN,
ROOM 1106 CHAMBER OF COMMERCE BUILDING, AGENT.

Bills and estimate..... \$25.91

GROCERY STORE NOS. 3508 AND 3510 VINCENNES AVENUE, H.
WEISKOPF & Co., OWNERS.

Bills and estimates submitted to the board:	
Tyler & Hippach, 1 plate glass, 80 by 129; 1 plate glass, 55 by 129	\$78.00
1 window shade	5.00
Temporary boarding up of window	4.00
Damage to vegetables and fruits by broken glass	20.00
Total	107.00

These premises, Nos. 3508 and 3510 Vincennes avenue, are so remote, nearly one-half mile from the scene of the explosion, that grave doubt must exist that the damage was caused thereby.

Alice York resides at 4101 Grand Boulevard; personal injuries as described by physician:

A complete rupture of the tendo achilles from the os calcis and

a severe bruised condition of the foot (left foot). An incised wound just below the patella of left leg, with an additional bruise extending 3 inches down, both involving the periosteum. A severe bruise on the right hip, back of the pelvis, 5 inches through and extending to spine; a smaller bruise on left side and also on left shoulder. Extravasations were especially great in the foot, leg, and right hip. Besides these a number of lesser bruises on head and body.

Bills paid and rendered:

Dr. Hemsteger.....	\$158.00
Ida C. Handschu, nurse, four weeks.....	60.00
Clothing ruined.....	75.50
Glasses.....	10.00
Crutches.....	1.50
Six weeks lost time, at \$25 per week.....	150.00
Medicines.....	25.00
Total.....	480.00
Estimated excess (six weeks lost time and medicines).....	175.00
Estimate passed by board.....	305.00

RECAPITULATION OF ESTIMATES PASSED BY THE BOARD.

P. J. Ryan.....	1,307.00
Charles R. Cave.....	1,840.61
Edward C. Huling.....	742.26
Jacob R. Custer.....	717.83
Herman Lehman.....	829.75
Herman Grossman.....	770.00
Phillip W. Raber.....	1,848.99
F. A. Devlin, lessee.....	160.00
Samuel B. Foster.....	1,699.50
Amelia H. Dodge.....	1,495.84
Frederick A. Howe.....	893.06
Hellen Palmer.....	946.75
James Wright.....	1,213.68
W. H. Godair.....	258.04
J. W. Morrison.....	47.77
Mrs. J. E. Ellen.....	25.00
W. W. Morrill.....	50.00
Silas H. Finch.....	54.39
David Mayer, lessee.....	45.00
Howlin Horgenroth.....	125.00
H. N. Stephens, lessee.....	12.55
John W. Byers.....	105.33
Edward D. Murray.....	100.00
Arthur W. Allen.....	99.15
Emilie J. Smity, trustee.....	19.00
T. A. Keene.....	50.00
Hannah Sullivan.....	40.00
Armory Warehouse Company.....	18.00
W. F. Horn, agent.....	25.91
Alice York.....	305.00
Total.....	15,845.23

There being no further business before it the board adjourned sine die
Chicago, Ill., November 3, 1894.

J. D. BINGHAM,
Colonel and Assistant Quartermaster-General,
President.

E. M. HEYL,
Colonel and Inspector-General,
Member.

S. W. GROESBECK,
Major and Judge-Advocate United States Army,
Recorder.

HEADQUARTERS DEPARTMENT OF THE MISSOURI,
Chicago, Ill., November 8, 1894.

Respectfully forwarded to the Adjutant-General of the Army for consideration by the War Department, recommending that the Congress be asked to make an appropriation to cover the damages passed upon by the board.

NELSON A. MILES,
Major-General Commanding.

H. Rep. 398—2



JOHN FINN.

FEBRUARY 17, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COX, from the Committee on Claims, submitted the following

REPORT:

[To accompany S. 227.]

The Committee on Claims, to whom was referred the bill (S. 227) for the relief of John Finn, having had the same under consideration, beg leave to report the same with the recommendation that it pass.

The Senate report on this bill (No. 79, Fifty-fourth Congress, first session) fully sets forth the facts, and your committee adopt the same and make it a part of this report.

Your committee further recommend that the bill (H. R. 1281) on the same subject lie on the table.

[Senate Report No. 79, Fifty-fourth Congress, first session.]

The Committee on Claims, to whom was referred the bill (S. 227) entitled "A bill to permit the withdrawal of certain papers and the signing of certain receipts by John Finn or his attorney," having had the same under consideration, beg to submit the following report:

The substitute herewith recommended by your committee passed both Houses of Congress at the last session, but failed to reach the President in time for his signature. Based on reports heretofore made in favor of this claim, notably Senate Report No. 690, Fifty-third Congress, second session, your committee report back the bill (S. 227) with the following amendments, and with said amendments recommend its passage:

Strike out all after the enacting clause and insert in lieu thereof the following:

"That the Auditor for the War Department be, and he is hereby, authorized and directed to permit John Finn, of Saint Louis, Missouri, claimant of three hundred and seventy-one quartermaster's vouchers, aggregating six thousand three hundred and sixty-three dollars and ninety-five cents, more or less, to sign the receipts upon the said vouchers, which said vouchers it is alleged were presented by the said Finn to the Quartermaster-General and are now alleged to be in the office of the Auditor for the War Department; and the receipts so signed shall be accepted as a sufficient compliance with the laws and rules regulating such cases: *Provided*, That it shall be found, upon examination, that the said vouchers were duly issued by the legally constituted authorities and came rightfully and for value into the hands of said Finn, and that they have not heretofore been audited and paid: *Provided, further*, That all original payees who do not present claims for payment on said vouchers within thirty days from the date of approval of this act shall be forever barred from presenting such claim, and said John Finn shall after said thirty days be entitled to receive the amounts found to be due thereon upon the conditions aforesaid."

Amend the title of the bill so as to read as follows:

"A bill to authorize the Auditor for the War Department to audit certain quartermaster's vouchers alleged to belong to John Finn, of Saint Louis, Missouri."

FORT ASSINNIBOINE MILITARY RESERVATION.

FEBRUARY 17, 1896.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. KULP, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany S. 626.]

The Committee on the Public Lands, to whom was referred Senate bill 626, report:

The committee adopt the report of the Senate Committee on Public Lands, which is as follows:

The boundaries of the Fort Assinniboine Military Reservation in Montana were designated by Executive order March 4, 1880, within the limits of an Indian reservation then existing. On May 1, 1888, the Indian title to the lands in that portion of the Indian reservation covered by the military reservation was extinguished, leaving the military reservation created by Executive order as the only barrier to settlement of the lands under general law. By orders issued May 2, 1888, September 25, 1888, and October 9, 1891, certain lands were at the dates named excluded from the military reservation, whereupon persons duly qualified proceeded to enter certain portions of the land thus excluded under the homestead and desert-land laws, and certain portions thereof have probably been located under the mining laws. Twenty homestead and seven desert-land entries were actually made and about 150 citizens of the United States have settled upon these lands, with intent to enter the same under either the desert-land or homestead law. Valuable improvements have been made by these settlers.

The land department permitted filings to be made under the general land laws, and relying in good faith upon the construction of the law thus promulgated the settlers proceeded to improve their homesteads and desert-land claims in good faith, and they are now residing upon, improving, and holding the land as actual settlers. After the lapse of many years these settlers were advised by a departmental decision, promulgated on April 26, 1895, that the act of May 1, 1888, under which they had been permitted to file their claims, did not apply to the lands in question, but that, on the contrary, the lands must be sold in 40-acre tracts, according to the terms of the act of July 5, 1884, providing for the sale of abandoned military reservations, and the act of August 23, 1894, each of said acts relating to military reservations. Upon the promulgation of the decision all entries made theretofore were held for cancellation, and some of them have actually been canceled, to the great and serious injury of the settlers.

The decision referred to turns upon close technical construction, and the committee is advised that in making such decision the Secretary overruled the well-considered opinion of the Commissioner of the General Land Office, who held that the land in question was subject to entry under the various acts referred to in this bill and was not subject to disposition at public auction after appraisement, as provided in the law relating to the sale of abandoned military reservations.

Speaking of the pending bill, the Secretary of the Interior says:

"The proposed bill, so far as its language is concerned, is identical with the act of May 1, 1888, and its effect, besides validating the entries * * * excepts the land in question from the operation of the act of July 5, 1884, and of August 23, 1894."

The bill was intended to accomplish precisely what the Secretary says it does accomplish; that is, it leaves the lands subject to disposition under the terms of the statute which the General Land Office for many years represented to the settlers as applicable to that portion of the public domain.

The Secretary further says:

"I have no objection to offer to the proposed bill, as it is not the province of this Department to attempt to interfere with whatever disposition of the public domain the Congress may see fit to make."

Inasmuch as there are two acts relating to the disposition of abandoned military reservations, in the judgment of the committee, the bill should be amended by striking out the word "an," in line 10, and inserting in lieu thereof the word "any," and, inasmuch as the act is made applicable to any portion of the reservation which may hereafter be thrown open to settlement, it is deemed advisable to leave the land on which Government buildings are situated subject to disposition under the law relating to abandoned military reservations, so that the same may be sold with regard to the improvements thereon. Therefore, the committee recommend that after the word "reservation," on line 9, the bill be amended by inserting the following proviso, to wit:

"*Provided*, That if the entire reservation be abandoned for military purposes, this act shall not apply to an area one mile square embracing the Government buildings at Fort Assinniboine."

The committee therefore recommend the adoption and passage of the Senate bill.

BREVET RANK FOR ACTIVE OR RETIRED OFFICERS OF
THE ARMY.

FEBRUARY 17, 1896.—Referred to the House Calendar and ordered to be printed.

Mr. HULL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 3719.]

The Committee on Military Affairs have considered the bill (H. R. 3719) to provide for appointment by brevet of active or retired officers of the United States Army to the brevet rank held in the volunteer service of the United States, and recommend that it be amended by inserting in the sixth line, after the word "to," the words, "the highest rank held or," and when so amended, the committee recommend that the bill do pass.

It does not increase the cost of the Army. It simply gives a few officers who were brevetted for gallant service the right to wear the uniform of brevet rank when not on duty.



GEORGE T. SIMPSON AND LOUIS SHAW.

FEBRUARY 17, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GAMBLE, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany H. R. 5259.]

The Committee on Indian Affairs, to whom was referred House bill 5259, have had the same under consideration and beg leave to report:

On May 17, 1892, the persons named in the bill entered into a contract with the Government to survey a tract of land in Minnesota known as the Grand Portage Indian Reservation. As compensation for their services in making such survey said parties were to receive \$9 per mile for base, standard, meridian, and meander lines, \$7 for township lines, and \$5 for section lines, "except when the lines of survey pass over mountainous lands or lands heavily timbered or covered with dense undergrowth," and in such case additional compensation was provided for.

These contractors entered upon the work in June, 1892. Owing to the almost unprecedented plague of flies and insects in the brush and woods on the north shore of Lake Superior that summer, all explorers and surveyors, and all the Indians were temporarily driven out of these parts. Indians employed by the contractors refused to enter the interior of the reservation, and the contractors were compelled to temporarily abandon the work. In October of that year they returned to complete the survey, but on account of the topographical situation of the reservation, and other unforeseen difficulties arising from the use of the solar compass, as provided in the contract, they were again compelled temporarily to abandon the work, after having expended in actual cash the sum of \$1,400.

The character of the work, the difficulties encountered, and the largely increased expense of making the survey was then reported to the surveyor-general. After fully investigating and verifying this report, the surveyor-general submitted the same to the Commissioner of the General Land Office, with a recommendation for additional compensation for the contractors. This recommendation was approved by the Commissioner of the General Land Office, the Commissioner of Indian Affairs, and the Secretary of the Interior. Thereafter the contractors were duly notified of the action of the Interior Department, as appears from the following letter:

DEPARTMENT OF THE INTERIOR,
Washington, D. C., May 18, 1893.

SIR: I acknowledge the receipt of your communication of the 18th ultimo, relative to surveys within the Grand Portage Indian Reservation, in Minnesota, and the necessity for increased compensation for the execution of the work.

In response thereto I transmit herewith a copy of a communication of the 8th instant from the Commissioner of Indian Affairs, in which he recommends, in view of the statement made, that the increased compensation estimated for by the surveyor-general be allowed.

Concurring in the recommendation of the Commissioner, authority is hereby granted for additional cost of field work of said surveys, \$400; cost of preparation of field notes and plats of the same, \$225; and for examination of this work in the field after completion, \$250, a total of \$875; payment from appropriation for completion of necessary surveys within the Indian reservations in Minnesota.

Very respectfully,

WM. H. SIMS, *Acting Secretary.*

The COMMISSIONER OF THE GENERAL LAND OFFICE.

Relying upon these recommendations, which were communicated to the contractors by the surveyor-general, the contractors resumed their work and spent the whole of the summer and autumn of 1893 in completing the survey. The survey was finished within the time set in the original contract and was duly approved. The additional compensation was allowed by the surveyor-general, and was approved by the Interior Department and by the Second Auditor of the Treasury Department. The account then passed to the Second Comptroller, who disallowed all above the sum of \$1,506.67, on the ground, as stated by him, that "the principle is well established that the power vested in the heads of Departments to make contracts does not imply power to alter such contracts when made and thereby increase the liability of the Government." Subsequently in a letter concerning this matter the Second Comptroller says:

In considering this case this office did *not* undertake to say *nor* is its action understood as deciding that the services rendered were not reasonably worth all that has been claimed. The question as to what was the reasonable value of the services rendered has not been considered by me. If these persons have rendered services to the Government, the reasonable value of which is greater than the sum for which they contracted to render the same, the case seems to be one which appeals solely to the legislative discretion for relief. The remedy does not appear to lie with the accounting officers.

From the itemized and duly verified statements of the amounts actually paid out by these contractors in doing this work, in accordance with the contract, it appears that they expended:

For transportation of employees.....	\$336. 05
Amount paid employees.....	1, 892. 50
Supplies.....	264. 79
Total expenses.....	2, 493. 34
Of this amount they received from the Government.....	1, 506. 67
Balance.....	986. 67

This balance is \$86.67 more than the amount asked for in this bill. Your committee have carefully examined all the evidence submitted as to the character of the work and the manner of its performance and feels satisfied that it was performed as expeditiously and with as little expense as possible, and as the bill covers only actual expenses, and nothing for services, your committee recommend the passage of the bill.

JACOB A. HENRY.

FEBRUARY 17, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GRAFF, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 4082.]

The Committee on Claims, to whom was referred the bill (H. R. 4082) for the relief of Jacob A. Henry, having had the same under consideration, beg leave to report the same with the recommendation that it pass.

The House Report, No. 2735, Fifty-first Congress, first session, fully sets forth the facts of this claim, and your committee adopts the same and makes it a part of this report:

[House Report No. 2735, Fifty-first Congress, first session.]

The Committee on Claims, to whom was referred the bill (H. R. 4165) for the relief of Jacob A. Henry, having had the same under consideration, respectfully report:

That the substantial facts on which this claim is based are set forth in the preamble of this bill.

They further report that this claim has been several times favorably reported, once by the Committee on Claims of the Forty-ninth Congress, being Report No. 2532, and also by the Committee on Claims of the Fiftieth Congress, Report No. 3507, second session, for the amount claimed in the present bill.

Your committee further state that April 14, 1880, after the expiration by forfeiture of the contract with S. N. Kimball, W. R. King, major of engineers in charge of the construction of the work at Muscle Shoals, in reply to a letter from the present claimant, wrote as follows:

In reply to your inquiry of the 10th instant, in regard to the amounts withheld by the United States on account of contract of Seth N. Kimball, for whom you did work on locks at Muscle Shoals Canal, I have to state that the forfeiture amount is \$4,665.30, as follows:

Retained percentage	\$3, 974. 74
Work not paid for, namely, Lock No. 8.....	690. 56
Total.....	4, 665. 30

Your committee further report that June 3, 1882, in compliance with the request of the Committee on Claims, addressed to the Secretary of War, and by him through the Engineer's Office, referred to said W. R. King for statement of facts. Said W. R. King, among other things, states:

"And, finally, I recommended, and still recommend, that if it can properly be done, the retained percentage, \$3,974.74, and the balance forfeited by Kimball, \$690.56, for work done after the last payment, be paid to Mr. Henry on power of attorney from Seth N. Kimball, dated January 31, 1880."

In conclusion of the report, Major King says:

"As the entire appropriation under which Kimball's contract has been made has been expended, I would respectfully recommend that the Treasury Department be authorized to pay any allowance Congress may decide to make, from funds in the Treasury not otherwise appropriated."

This report of Major King's was transmitted June 7, 1882, by the Chief of Engineers to the Hon. Robert T. Lincoln, Secretary of War, in a letter as follows:

OFFICE OF THE CHIEF OF ENGINEERS,
UNITED STATES ARMY,
Washington, D. C., June 7, 1882.

SIR: I have the honor to return herewith letter of the Hon. D. C. Smith, of the Committee on Claims, House of Representatives, transmitting for information (H. R. 5592) a bill for the relief of Jacob A. Henry, and to inclose a copy of the report thereon by Maj. William R. King, Corps of Engineers, the officer in charge of the Muscle Shoals Canal, Tennessee River, to which attention is respectfully invited. Major King is perfectly conversant with all of the facts pertaining to the claim of Mr. Henry, and his statements are entitled to consideration.

Very respectfully, your obedient servant,

H. G. WRIGHT,
Chief of Engineers, Brigadier and Brevet Major-General.

Hon. ROBERT T. LINCOLN,
Secretary of War.

June 8, 1882, the foregoing letter, together with Major King's report, was transmitted to the Hon. D. C. Smith, accompanied with the following letter:

WAR DEPARTMENT,
Washington City, June 8, 1882.

SIR: I have the honor to acknowledge the receipt of your letter of the 24th ultimo, inclosing House bill 5592 for the relief of Jacob A. Henry, and also the petition of said Henry for relief from losses incurred by him through the declaration by the Government of forfeiture of the contract of S. N. Kimball for building locks on the Muscle Shoals Canal, Tennessee River. In response to your request for information as to the facts in regard to the claim of Mr. Henry, as shown by the official records, I beg to invite your attention to the inclosed report of the Chief of Engineers, dated the 7th instant, and accompanying copy of the report on the subject of Maj. William R. King, Corps of Engineers, the officer in charge of the Muscle Shoals Canal.

Very respectfully, your obedient servant,

ROBERT T. LINCOLN, *Secretary of War.*

Hon. D. C. SMITH,
Of Committee on Claims, House of Representatives.

This claim was again presented to the Committee on Claims of the Forty-ninth Congress, of which the Hon. Wm. M. Springer was chairman, and in response to a letter from him on this subject, Mr. Endicott, then Secretary of War, replied as follows:

WAR DEPARTMENT,
Washington City, May 12, 1886.

SIR: I have the honor to acknowledge the receipt of your letter of the 3d instant, inclosing for information House bill 5936, Forty-ninth Congress, first session, which authorizes payment to Jacob A. Henry, of amounts aggregating \$36,665.24 for work done and damages incurred in the construction of locks on the Muscle Shoals Canal, Alabama.

In reply I beg to transmit herewith communications of the 7th instant, from the Chief of Engineers, with a copy of the report in this case, submitted June 3, 1882, by Maj. W. R. King, Corps of Engineers in charge of the improvements on the Muscle Shoals Canal, in connection with House bill No. 5592, Forty-seventh Congress, first session, which had in view the same object as the present bill, and also a copy of the letter from the Chief of Engineers of June 7, 1882, forwarding Major King's report, which letter covers the information possessed by this Department in regard to the case.

From the letters of the Chief of Engineers it will be seen that Major King is perfectly conversant with all the facts pertaining to the claim of Mr. Henry, and that his statements are entitled to consideration.

Very respectfully, your obedient servant,

WM. C. ENDICOTT,
Secretary.

Hon. WM. M. SPRINGER,
Chairman Committee on Claims, House of Representatives.

Attached hereto and made a part of this report will be found a copy of Major King's report referred to in the preceding communications, and giving the facts out of which this claim arises and upon which it is based, and from an examination of this report and all the other facts and communications in evidence, your committee are satisfied that the present bill appropriating the sum of \$4,665.30 for the relief of Mr. Henry is just, and therefore report the bill back with a recommendation that the same do pass.

REPORT OF MAJOR KING.

UNITED STATES ENGINEER OFFICE,
Chattanooga, Tenn., June 3, 1882.

GENERAL: In compliance with indorsement of Chief of Engineers, on communication of Hon. D. C. Smith, Committee on Claims, House of Representatives, to the honorable the Secretary of War, dated May 24, 1882, I have the honor to report:

(1) As stated in Mr. Henry's petition, a contract for building locks 8, 9, and 10, Muscle Shoals Canal, was awarded to S. N. Kimball in 1877 (September 25), and I have no reason to doubt that Kimball undertook to transfer his interest in the contract to the Joliet Stone Company, and they in turn to J. L. Overton & Co., including J. A. Henry, but it is not true that Mr. Henry was given to understand, either directly or indirectly, that any such transfer had been or would be recognized.

(2) On the other hand, the contract itself specified that "and it is further agreed by the parties of the second part, as required by the 14th section of the act of Congress approved July 17, 1862, that neither this contract nor any interest therein shall be transferred to any other party or parties, and that any such transfer shall cause the annulment of the contract as far as the United States is concerned."

Mr. Henry must therefore have bought a contract without reading it or he could not have been ignorant of the law.

(3) No one but S. N. Kimball was ever recognized as having any interest in this contract. All vouchers were signed by him in person and all payments were made to him even up to the time the contract was annulled. Mr. Henry and all other persons on the work (except inspectors, etc., employed by the Government) were treated as employees of Mr. Kimball, and as soon as I had positive information that such was not the case, I recommended that the contract be annulled.

(4) Captain McFarland, who acted as counsel for both Kimball and Henry, was verbally notified by me that transfers of contracts were forbidden by law, and in July, 1879, I formally notified J. L. Overton & Co. (which Mr. Henry states included himself) that Kimball was the only person recognized as having any contract or pecuniary interest in the work. (See appended copy, marked A.)

(5) So far as relates to the obstructions of the boating channel by cofferdams, there is not the slightest cause of complaint.

When the contract was awarded to Kimball both channels below the mouth of the canal were about equally obstructed by rock reefs, and were neither of them navigable for a skiff at low water. There was no understanding at that time nor subsequently that the Government would improve either of these channels before the Kimball contract was completed; but it was found practicable to commence work on one of these channels early in 1878, and it was almost finished at the time the contract terminated. The improved channel, although not completed, was available for the contractor during the winter and spring of 1878 and 1879, and had he fully utilized it then, there would have been no trouble in boating up all the stone he used during the existence of the contract. Having received this gratuitous help from the Government, Mr. Henry complains because the work was not entirely completed and the cofferdam removed earlier in the season.

(6) The entire quantity of stone ready for boating from the quarry at the time the contract was terminated was only 469 cubic yards, less than one-eighth enough to build one of the locks. The delay caused by the noncompletion of the channel was not, therefore, longer than it would have taken to boat that quantity of stone to the work, or, say, twelve days.

(7) The delay of the steamer *Hobson*, referred to in the affidavit of William Davidson, and the consequent loss, was due entirely to mismanagement or carelessness on the part of those having her in charge. She was employed when she could not work to advantage, and was run on a rock early in the season (before the cofferdams in question were built), and instead of taking advantage of proffered assistance of the Government working force to get her off, she was allowed, in the most imbecile manner, to remain aground all summer, while her charter was running on, though I don't believe it was at the rate of \$40 a day.

(8) There never has been a time, from the beginning of work under Kimball's contract until the present, that there was even a fair prospect that he would ever complete the work, and, from what appeared to me to be good and sufficient reasons and in the interest of the work, I earnestly recommended that his bid be rejected. This recommendation, however, was not approved, and Kimball evidently entered into the contract with the deliberate intention of getting rid of it in some such way as he finally adopted.

(9) Although Mr. Henry may have been led into this trouble by unscrupulous men, and may have thought that he could complete the contract without losing money by it, there is not a shadow of a doubt but that the termination of the contract by the Government was the means of saving him thousands of dollars, as he could not have

done the work for anything like the prices named in the contract, and all work done would have been at a loss.

(10) Mr. Henry has no cause to complain of the treatment he has received from the Government in this matter. Believing that he had been duped by sharpers, I have gone to the very extent of my ability in dealing liberally with him. His tools, railroad, unused stone, and other materials were appraised by three competent and disinterested engineers at their "value to the Government in their present condition and location," and Mr. Henry was paid in full for all that could be conscientiously bought for the work. Stone to the value of \$8,982 was bought, and the quarry he refers to has been rented since March 12, 1881, at \$500 per annum, and will be a valuable quarry for other work when the Government is done with it.

And, finally, I recommended and still recommend that if it can properly be done the retained percentages (\$3,974.74) and balance forfeited by Kimball (\$690.56) for work done after the last payment be paid to Mr. Henry, on power of attorney from Seth N. Kimball, dated January 31, 1880. It should be noted that Mr. Henry had no power of attorney from Kimball until a month after the contract was terminated. This would certainly be a liberal settlement, and should bring from Mr. Henry a receipt in full of all demands upon the Government arising out of work done under Kimball's contract.

Of course the plea in such cases is that the Government gets the benefit of the contractor's loss, but had Kimball cheated a poor laborer out of his wages, as laborers have often been cheated by contractors, the Government would have been neither morally nor legally holden for the amount, and still less should it be holden for the funds advanced by a capitalist who violates both the law and the contract.

However unfortunate Mr. Henry may have been in his business associations in connection with this work, it is fair to assume that all the parties in interest in this contract understand each other and are united on one point, viz, that all the money they can get out of this Government is clear gain to them.

All the facts stated in the foregoing report will be fully covered by affidavits of men of unquestioned integrity and intelligence, and will be forwarded on application if desired.

As the entire appropriation under which Kimball's contract was made has been expended, I would respectfully recommend that the Treasury Department be authorized to pay any allowance Congress may decide to make "from funds in the Treasury not otherwise appropriated."

Respectfully submitted.

W. R. KING, *Major of Engineers.*

The CHIEF OF ENGINEERS, U. S. A.
Washington, D. C.



NANCY E. DAY.

FEBRUARY 17, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GRAFF, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 2744.]

The Committee on Claims, to whom was referred the bill (H. R. 2744) for the relief of Nancy E. Day, administratrix of the estate of James L. Day, deceased, having had the same under consideration, beg leave to report the same with the recommendation that it pass.

The Senate Report No. 252, Fifty-third Congress, second session, sets forth the facts, and your committee adopts the same and makes it a part of this report.

[Senate Report No. 252, Fifty-third Congress, second session.]

The Committee on Claims, to whom was referred the bill (S. 1666) for the relief of Nancy E. Day, administratrix of the estate of James L. Day, deceased, having had the same under consideration, submit the following report:

The present bill is identical with one which received the favorable consideration of this committee in the Fifty-first and Fifty-second Congresses. It was passed in the Senate in the last Congress, but no final action was taken in the House of Representatives.

The committee have again considered the case, and recommend the passage of the bill and adopt the favorable report heretofore made.

[Senate Report No. 307, Fifty-second Congress, first session.]

The Committee on Claims, to whom was referred the bill (S. 1034) for the relief of Nancy E. Day, as administratrix of the estate of James L. Day, deceased, submit the following report:

The claimant's intestate, James L. Day, was a mail contractor on postal route No. 8151, from New Orleans to Mobile. His contract extended from July 1, 1858, to June 30, 1862. The stipulations of the contract appear in the findings of fact given below.

The service was discontinued on May 24, 1861, and the Department declined to allow the one month's extra pay according to the stipulation, but no final action was taken. The one month's pay "on the amount dispensed with" is \$3,041.66, according to the contract. On February 11, 1885, the Acting Postmaster-General referred the matter to the Court of Claims in accordance with the second section of the act of Congress approved March 3, 1883, entitled "An act to afford assistance and relief to Congress and the Executive Departments in the investigation of claims and demands against the Government."

After a full hearing of the case on its merits the court found in favor of the claimant, who is the administratrix of the estate of the contractor.

The case is published in volume 21, Court of Claims Reports, page 262.

The findings of fact and conclusion of law, with the opinion of the court, are as follows:

FINDINGS OF FACT.

This case having been heard by the Court of Claims, the court, upon the evidence, finds the facts as follows:

I.

On the 11th day of February, 1885, the Acting Postmaster-General transmitted the above-entitled cause to this court, under the authority of an act of Congress approved March 3, 1883, entitled "An act to afford assistance and relief to Congress and the Executive Departments in the investigation of claims and demands against the Government."

II.

On the 24th day of April, 1858, the United States entered into a contract with James L. Day, of Norwich, in the county of New London and State of Connecticut, the claimant's intestate, for the transportation of the mail on postal route No. 8151, from New Orleans, in the State of Louisiana, to Mobile, in the State of Alabama, and back, daily, in low-pressure steamboats, at a compensation of *thirty-six thousand five hundred dollars per year*, for and during the term commencing the 1st day of July, in the year 1858, and ending with the 30th day of June, in the year 1862.

III.

The said contract so as aforesaid entered into between the United States and the said James L. Day, contained, among others, the following stipulation or agreement, to wit:

"It is hereby stipulated and agreed by the said contractor and his sureties that the Postmaster-General may increase the service or change the schedule, he allowing a pro rata increase of compensation within the restrictions imposed by law for the additional service required; but the contractor may, in case of increased service or change of schedule, relinquish the contract on timely notice, if he prefer it to the change; also that the Postmaster-General may curtail or discontinue the service in whole or in part, he allowing one month's extra pay on the amount dispensed with."

IV.

That on the 24th day of May, 1861, the Postmaster-General, acting for and in behalf of the United States, and under the authority contained in the said contract, discontinued the service on said postal route No. 8151, and wholly annulled the said contract.

V.

At the dates therein stated the following correspondence between the decedent and the Department took place:

NORWICH, CONN., *July 10, 1861.*

To the POSTMASTER GEN'L,
P. O. Department, Washington.

DEAR SIR: I received on the 1st June, under date of the 24th May, official notice to discontinue the service on *route No. 8151*, and that the *contract* was annulled. This course on the part of the Department (though doubtless rendered necessary through the present state of the country) bears hard on us, who have invested a large amount of money in *boats* to enable us to carry out our *contract*, and 1st, in view of the balance due us on the *last quarter*, which would have ended yesterday, are we not entitled by our *contract* to 30 days' *pay additional* after notice is given to annul the service by the Department, as a small compensation to the contractor for discontinuing the *service*? This, I hope, if correct, you will allow me at the proper time; and in view of the balance due me on *quarter* ending the *31st March, '61*, I hope the Department will forward the amount as early as convenient, and oblige yours, very truly,

JAMES L. DAY.

POST-OFFICE DEPARTMENT,
OFFICE OF THE SECOND ASSISTANT POSTMASTER-GENERAL,
Washington, D. C., July 19, 1861.

JAMES L. DAY, *Norwich, Conn.*

In answer to your letter of 10th instant, I have to inform you that the Postmaster-General declines to allow one month's extra pay on the order of discontinuance of the service on Route No. 8151, from Mobile, Ala., to New Orleans, La. In no instance has this been allowed in the order of discontinuance in the seceded States.

G. W. McL.

The records and files of the Post-Office Department do not show that any other decision such as is mentioned in the letter of July 19, 1861, was made by the Department. One month's pay on "the amount dispensed with" is \$3,041.66.

CONCLUSION OF LAW.

Upon the foregoing findings the court decides, as a conclusion of law, that the claimant is entitled to the sum of \$3,041.66.

OPINION.

WELDON, J., delivered the opinion of the court:

The subject-matter of this claim was referred to this court by the Postmaster-General under the act of March 3, 1883 (chap. 116, 22 Stat. L., 485).

The facts disclosed by the findings are: That in the year 1861 the decedent was a mail contractor, having agreed with the United States to transport the mail on Route No. 8151, from Mobile, Ala., to New Orleans, La., for a period of four years, commencing on the 1st day of July, 1858, and ending on the 30th of June, 1862.

On the 24th of May, 1861, the Postmaster-General discontinued the service and annulled the contract. The petition is filed to recover from the United States the sum of \$3,041.66, that being one month's pay, computing according to the terms of compensation provided for by the agreement. Upon the discontinuance of the service and cancellation of the contract the decedent wrote to the Department, as shown by finding fifth, to which the Department replied, as is shown by said finding.

It is insisted by the counsel for the defendants that the fifth finding shows a presentation of the matter on the part of the decedent in the year 1861; and a rejection of it by the Department so as to bring the case within the decisions of this court as to the power of the head of a Department to review and consider a claim determined and rejected by his predecessor.

The doctrine of *res judicata* as being applicable to the jurisdiction of the head of a Department is fully recognized by this court in several adjudications. (*Lavalette Case*, 1 C. Cls., 149; *Jackson Case*, 19th, 504; *The State of Illinois v. United States*, 20 C. Cls., 342.) The doctrine of these decisions is found in the case of the *United States v. Bank of Metropolis* (15 Pet., 401), and also in the report of the Judiciary Committee of the Senate, June 14, 1878.

If the facts, as shown by the record, bring the case at bar within the law of those cases, then the contention of the Government is well founded and the petition should be dismissed. It is not pretended that any mistake was made arising from errors of calculation, or that any new and substantial element of fact is now presented that was not known to the Department at the time. The correspondence set forth in the fifth finding took place between the decedent and the Department, but the claimant assumes the position that there has been no adjudication by the Postmaster-General which in legal effect prevents the allowance by the incumbent officer of the claim made by the petition.

A very serious question might have arisen as to the claimant's right of recovery upon the merits of the claim, as a legal liability against the United States, but for the decision of the Supreme Court in the case of *Reeside v. The United States* (8 Wall., 38).

By the terms of the contract the Postmaster-General had the right to "curtail or discontinue the service in whole or in part, he allowing one month's extra pay on the amount dispensed with." The right of discontinuance was a right secured to the Department without reference to any reason or necessity for the same; and the measure of damages to the contractor, because of such discontinuance, was fixed by the terms of the contract. Historically it is known to the court the reason of such discontinuance, and the inability of the decedent to perform the service of a mail contractor on the route named in the petition, on the 24th of May, 1861; but the condition of the parties is immaterial in the light of the law announced in the *Reeside Case*.

The only question to be determined is whether there has been such an adjudication as constitutes in law a decision of the Department making the claim an adjudged matter in such Department. Do the facts bring the case within the reason and spirit of the administrative law established and recognized by the decision? There were no rules prescribed by the Department defining the manner in which claims should be presented, nor any prescribed formula in which the decisions of the Department were preserved in the form of judgments and decisions; and we are left to determine from the substance and force of acts of the parties whether the matter has been settled by a head of a Department so as to prevent an investigation by his successor. The findings show that the decedent, on the 10th of July, 1861, wrote to the Postmaster-General, "Are we not entitled by our contract to the thirty days' pay additional after notice is given to annul the service by the Department?" This seems

to be a mere inquiry as to the right of the party under the contract in consequence of the discontinuance of the mail service.

To that inquiry the Department replied "that the Postmaster-General declines to allow one month's extra pay on the order of discontinuance. * * * In no instance has this been allowed in the order of the discontinuance in the seceded States." It might be inferred from the phraseology of the answer that for the time being it had become the policy of the Government not to allow for discontinuance in the Southern States where the service was discontinued because of the disturbed condition of the country; but it does not appear that other decisions were made establishing a policy on the part of the Government in relation to discontinued mails in the seceded States. It does not appear that the decedent, either in person or by agent, was ever heard before the Department in defense of his claim, or that any investigation was ever made or decision announced except the letter of the Department in answer to the inquiry as to whether the contractor was not entitled to one month's pay.

While we have no disposition to qualify or restrict the doctrine of what we have heretofore decided in cases like the one at bar, we have no disposition to extend the doctrine so as to include transactions not falling clearly within the law of those cases.

It is the opinion of the court that the findings do not show an adjudication of the claim by the Postmaster-General in 1861, so as to remove it from the jurisdiction and control of the Department at this time; and there being in law no answer to the claims on its merits, it is the conclusion of the court that the claimant is entitled to be paid the sum of \$3,041.66, and the clerk will certify to the Post-Office Department a copy of the findings of fact, the conclusion of law, and the opinion of the court.

The findings and opinion of the court were transmitted by the clerk to the Postmaster-General April 30, 1886, and no provision has yet been made for the payment of the amount.

It seems that the contractor was, when he entered into the contract, and during his lifetime, a resident of the State of Connecticut, where his widow, the administratrix, still resides, and their loyalty to the United States during the late war has never been questioned.

The penalty was no doubt based upon the idea that the contractor would necessarily suffer loss by the discontinuance of the service after investing a large amount of money in boats and incurring expenditures for running the same.

The sum named was the measure of damages agreed upon in the contract, and the record discloses no good reason why the findings of the court should not be carried out.

This case was before the Fiftieth Congress, and after a favorable report from this committee a bill identical with that now before us was passed in the Senate, and was favorably considered by a committee of the House of Representatives, and was on the Calendar there at the close of the last session.

A review of the case has brought the committee to the same conclusion that was before reached, and the passage of the bill is recommended.



HEIRS OF WILLIAM W. DOUGHERTY.

FEBRUARY 17, 1896.—Laid on the table and ordered to be printed.

Mr. GRAFF, from the Committee on Claims, submitted the following

ADVERSE REPORT:

[To accompany H. R. 1289.]

The Committee on Claims, to whom was referred the bill (H. R. 1289) for the relief of the heirs of William W. Dougherty, having carefully considered the same, report to the House with the recommendation that it do not pass for the following reason:

Suit was brought by the United States against William W. Dougherty et al., in the circuit court of the United States for the western division of the western district of Missouri, for an amount much less than the original amount claimed by the United States Government to be due from William W. Dougherty, now deceased, as ex-Indian agent, upon the very items which are now sought to be made a basis for claim against the Government, and that the amount sued for was in the nature of a compromise, as appears by the evidence of the claimants themselves, and that in that amount was included \$377.68 back salary due Agent Dougherty, which amount was deducted from the total amount claimed to be due to the United States, leaving a balance of \$155.38 with \$29.74 court costs, which was voluntarily paid by the heirs of said William W. Dougherty, and while said claimants did so under protest, yet they had every opportunity to present any evidence that said amount was not due at that time, but no additional testimony has been furnished by the claimants which is sufficiently definite to warrant a finding that said amount so claimed by the Government was not due.

The committee also find that at that time the court had complete jurisdiction of all matters which are now in controversy.

DISPOSITION OF SALES OF CERTAIN BONDS.

FEBRUARY 17, 1896.—Ordered to be printed.

Mr. DALZELL, from the Committee on Ways and Means, submitted the following

REPORT:

[To accompany House Resolution 90.]

The Committee on Ways and Means, to whom was referred the resolution of inquiry hereinafter set out, having considered the same, report a substitute therefor and recommend the adoption of said substitute.

RESOLUTION calling on the Secretary of the Treasury for information.

Resolved, That the Secretary of the Treasury be requested to furnish to the House the following information:

What disposition he has made of the proceeds of the various bond sales made by him under the resumption act.

How much of the money so received has been used for the purpose of redeeming the Treasury notes and greenbacks, and what part, if any, has been used for current expenses of the Government; and if any portion of the money derived from the sale of said bonds has been used for current expenses, by what authority, or under what law has he so used said money for current expenses.

SUBSTITUTE.

Resolved, That the Secretary of the Treasury be requested to inform the House—

First. What was the aggregate amount of bonds issued and sold under the resumption act of 1875, and also what was the aggregate sum realized therefrom, specifying the character of coin received between the passage of said act and March 1, 1893; and also the aggregate amount of bonds offered and sold under such act, and the aggregate sum realized therefrom between March 1, 1893, and January 1, 1896, giving amount, rate, character of bond, and sum realized for each issue; and also what was the amount of gold in the Treasury reserve for redemption of United States legal-tender notes January 1, 1879; and what was the amount of gold reserved for such purpose March 1, 1893, and also the amount reserved on January 1, 1896.

Second. What was the aggregate amount of United States legal-tender notes redeemed by the Treasury between January 1, 1879, when the resumption of specie payments took effect, and March 1, 1893, and what was the aggregate amount redeemed between March 1, 1893, and January 1, 1896, specifying separately the amount of greenbacks, so called, and the amount of Treasury notes thus redeemed, and not including the Treasury notes redeemed and canceled as provided by the act of July 14, 1890, and also specifying the kind of coin, whether gold or silver, used in such redemption.

Third. What was the amount of greenbacks, so called, less currency certificates, held by national-banking associations, and what was the amount of Treasury notes in the Treasury March 1, 1893, and also January 1, 1896; also what was the amount of United States legal-tender notes and currency certificates held in their reserve by national-banking associations at each of such dates, or at the time nearest to such date for which the Treasury has official returns.

Fourth. What was the amount of United States legal-tender notes on deposit in the Treasury March 1, 1893, and also January 1, 1896, as the 5-per-cent fund for the redemption of the notes of national-banking-associations.

Fifth. What disposition was made of such of the United States legal-tender notes as were redeemed from January 1, 1879, to March 1, 1893, and did not remain as cash in the Treasury at the latter date; and also what disposition was made of such of the United States legal-tender notes as were redeemed between March 1, 1893, and January 1, 1896, and did not remain as cash in the Treasury at the latter date.

Sixth. What was the surplus or the deficiency of revenue, as the case may have been, each fiscal year or part of year, from July 1, 1879, to March 1, 1893, and from March 1, 1893, to July 1, 1895, and for the first half of the fiscal year ended January 1, 1896; what disposition was made of the surplus in each fiscal year; and also, from what source or sources the requisite means were obtained to pay so much of the current expense of carrying on the Government, pensions, and interest on the public debt as was in excess of the revenue in any such fiscal year, or part of fiscal year.

Seventh. What was the amount paid on account of the reduction of the principal of the interest-bearing public debt, including premium on bonds redeemed each fiscal year and part of fiscal year, from July 1, 1879, to March 1, 1893; how much of such amount was derived from surplus revenue, and how much from the fund for redemption of notes of national-banking associations in liquidation or reducing circulation, etc., which was covered into the Treasury by the act of July 14, 1890; and also how much the interest-bearing debt was increased between March 1, 1893, and January 1, 1896.

Eighth. What was the amount of legal-tender notes held in the Treasury as the deposit of national-banking associations in liquidation or reducing or retiring their circulation for the redemption of their outstanding circulating notes January 1, 1879, March 1, 1885, March 1, 1889, and also July 14, 1890, when this fund was covered into the Treasury; what was the amount of such notes of national-banking associations redeemed from the fund between January 1, 1879, and March 1, 1885, and between March 1, 1885, and March 1, 1889, and also between March 1, 1889, and July 14, 1890; also, what was the amount of legal-tender notes paid into the Treasury by national-banking associations in liquidation or reducing or retiring their circulation between July 14, 1890, and March 1, 1893, and between March 1, 1893, and January 1, 1896; and also, what was the amount of notes of such banks redeemed by the Treasury during each of these periods.



INDIAN APPROPRIATION BILL.

FEBRUARY 18, 1896.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. SHERMAN, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany H. R. 6249.]

The bill making appropriations for the current and contingent expenses of the Indian Department and fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June 30, 1897, and for other purposes, now presented by the Committee on Indian Affairs for consideration, appropriates considerably less than the aggregate amount estimated for, and also less than the aggregate amount appropriated for the fiscal year 1896.

The estimates upon which the accompanying bill is based will be found on pages 147 to 165, inclusive, of the Book of Estimates (Document No. 12, Fifty-fourth Congress, first session), and aggregate.. \$8,750,458.17
The appropriations recommended in the bill aggregate..... 8,630,995.17

Which is less than the estimate..... 119,463.00
The amounts appropriated for the Indian Service for the fiscal year 1896 aggregate..... 8,763,751.24
The amounts appropriated for the Indian Service for the fiscal year 1897 by the accompanying bill aggregate..... 8,630,995.17

Excess of 1896 over 1897..... 132,762.07

The following is an analysis, according to the several divisions of the bill, of the estimates submitted for 1897, the appropriations for 1896, and the amounts recommended in the bill for 1897:

Object.	Appropriation for 1896.	Estimate for 1897.	Recommended for 1897.
Current expenses, salaries, etc.....	\$727,640.00	\$812,040.00	\$738,040.00
Fulfilling treaty stipulations.....	4,642,147.19	4,633,378.17	4,593,378.17
Miscellaneous supports, gratuities.....	695,625.00	708,625.00	611,725.00
Incidental expenses.....	82,050.00	98,500.00	84,000.00
Miscellaneous.....	549,903.63	134,500.00	388,487.00
Support of schools.....	2,056,515.00	2,363,415.00	2,165,365.00
Trust fund interest.....	9,870.42		
Total.....	8,763,751.24	8,750,450.17	8,630,995.17

The bill embraces the following items not included in the estimates, and which are not properly chargeable to the current appropriation:

To pay balance due Commission appointed under act of March 2, 1889....	\$4,437
To purchase title to Ogden Land Company (estimated)	250,000
To negotiate with Takoma Indians.....	6,000
For artesian well, Yankton Agency.....	5,000
Payment to George Wright.....	550
	265,987
For erection of school at Chamberlain, S. Dak.....	25,000
For erection of school at Rapid City, S. Dak.....	25,000
	315,437

In addition to these the following items, which were estimated for, are also not properly chargeable to the current expenses of the Service:

Second installment, due March 4, 1896, for the purchase of the Cherokee Outlet.....	1, 660, 000
Capitalization of certain perpetual annuities due Pottawatomies of Indiana and Michigan.....	41, 626
Expense of preparation, digest of opinions relating to Indian affairs.....	3, 000
Negotiating with Indian tribes.....	5, 000
Total.....	2, 025, 063

Deducting this amount from the \$8,622,645.17 recommended by the bill and there remains \$6,597,582.17, which represents the actual amount recommended by the committee for the current expenses of the Indian Service for 1897.

Of the amount recommended in the bill \$215,000 is reimbursable to the United States.

The total amount recommended to be appropriated for the support of the Indian schools from other than treaty funds is \$2,165,365, and is divided as follows:

Support of day and industrial schools not otherwise provided for.....	\$1, 135, 000
Construction and repairs of school buildings.....	40, 000
Stock and cattle for Indian schools.....	15, 000
Nonreservation schools (20) specifically provided for.....	836, 925
Hampton Normal and Agricultural Institute (contract).....	20, 040
Lincoln Institution, Pennsylvania (contract).....	33, 400
Establishment of school, Chamberlain, S. Dak	25, 000
Transportation of Indian pupils.....	35, 000
Total.....	2, 165, 365

It will be noticed that while a very considerable reduction from the estimates has been made in every division of the bill except one, the heaviest reduction has been in the appropriations for schools. This reduction, however, will not impair the efficiency of the schools, as everything has been provided for in this bill that has been provided heretofore. In the estimate presented a number of items were asked for for additions to some of the new reservation schools and for electric light and steam heating plants, involving a large expenditure, which the committee, considering the present state of the finances of the country, are unwilling to recommend at the present time. For that reason appropriations for these items have not been included in the bill. However, the committee is fully convinced that the improvements in question are in the interest of economy, safety, and a better administration of the Service, and should be made at the earliest practicable day. Otherwise the appropriations for schools have not been reduced, but rather increased. In fact, the appropriation recommended is \$108,850 greater than the amount appropriated last year.

In continuation of the policy heretofore established by Congress, the bill provides for a reduction of pupils to be educated in contract schools. The matter was first acted upon by the Fifty-third Congress, the first regular session, which, by the act of August 15, 1894 (28 Stat. L., 311), directed—

That the Secretary of the Interior is hereby directed to inquire into and investigate the propriety of discontinuing contract schools, and whether, in his judgment, the same can be done without detriment to the education of Indian children; and that he submit to Congress at its next session the result of such investigation, including an estimate of the additional cost, if any, of substituting Government schools for contract schools, together with such recommendations as he may deem proper.

In compliance with the provision the Secretary of the Interior, on December 13, 1894, submitted a report on the subject, submitting also a report of the Commissioner of Indian Affairs, dated November 19, 1894, which will be found in House Executive Document No. 107, Fifty-third Congress, third session. The Secretary says:

My views upon this subject are set forth in my annual report to the President of the United States, from which I quote as follows:

"The contract schools are now the subject of general discussion. I agree fully with those who oppose the use of public money for the support of sectarian schools. But this question should be considered practically. The schools have grown up. Money has been invested in their construction at a time when they were recognized as wise instrumentalities for the accomplishment of good. I do not think it proper to allow the intense feeling of opposition to sectarian education, which is showing itself all over the land, to induce the Department to disregard existing conditions. We need the schools now or else we need a large appropriation to build schools to take their place.

"It would scarcely be just to abolish them entirely—to abandon instantly a policy so long recognized. My own suggestion is that they should be decreased at the rate of not less than 20 per cent a year. Thus, in a few years more, they would cease to exist. During this time the Bureau would gradually be prepared to do without them, while they might gather strength to continue without Government aid. This is the policy which is now controlling the Department, and unless it is changed by legislation it will be continued. The decrease in appropriation for the present fiscal year is 20 per cent."

It is possible that the plan of annual reduction can not be carried out to the full extent proposed, namely, 20 per cent each year. But in any event, within a few years, unless unforeseen obstacles arise, the substitution of Government for contract schools should take place.

The Commissioner says:

By following this plan and gradually reducing the contracts year by year, and placing the pupils in Government schools, or, better still, in public schools, the contract schools can be entirely done away with in the course of five or six years, and this without doing any great injury to the parties who have their money invested in these contract schools, and at the same time provide adequate school facilities for the Indian pupils.

To discontinue all contract schools in the near future, and provide Government schools in their stead, the total cost to the Government in erecting suitable buildings, such as are now being erected by this office and furnishing the same complete, ready for occupancy, to say nothing of subsistence and clothing, would be, approximately, \$1,203,060. This, however, is based upon the supposition that all buildings erected would be on agencies where there would be no cost for the land.

In pursuance of the plan here outlined the last Congress enacted—

That the Secretary of the Interior shall make contracts, but only with present contract schools, for the education of Indian pupils during the fiscal year ending June thirtieth, eighteen hundred and ninety-six, to an extent not exceeding eighty per centum of the amount so used for the fiscal year eighteen hundred and ninety-five, and the Government shall, as early as possible, make provisions for the education of Indian children in Government schools: *Provided*, That the foregoing shall not apply to public schools of any State, Territory, county or city, or to schools herein or heretofore specifically provided for.

The present bill contains the same provision, limiting the extent to which the Secretary of the Interior is permitted to contract to not exceeding 60 per cent of the amount so used for the fiscal year 1895.

All the reductions from the estimates have been made after the most careful scrutiny, and in no case was a reduction made where the Commissioner of Indian Affairs objected that it would be to the detriment of the Service.

The history of the item providing for the purchase of the title of the Ogden Land Company is as follows:

The Indian appropriation bill passed August 15, 1894 (28 Stat. L., 301), provided—

That the Secretary of the Interior be, and he hereby is, authorized to make a thorough investigation of the facts touching the so-called Ogden Land Company,

and the original history of the alleged claim of said company to any of the lands of the Seneca Nation of Indians in the State of New York, and any and all evidences of title, and to make to Congress a full report, with such suggestion and recommendations as he may deem proper in view of all the facts ascertained.

The Secretary made his report under such authority February 1, 1895. (Senate Ex. Doc. No. 52, third session Fifty-third Congress.) The Secretary transmits as a part of his report the report made to him by the Commissioner of Indian Affairs. The Secretary says:

The Commissioner is of opinion that the Ogden Land Company has a valid existing right and interest in the Allegany and Cattaraugus and in a portion of the Tuscarora reservations, and he says: The extent or quantity of this interest seems to be fully recognized by the courts and by the legislature of the State of New York.

He further says:

The first and most essential thing to be done in the solution of the Indian problem is the extinguishment of the claim of the Ogden Land Company.

The Secretary says that the claim has been—

a most serious hindrance to the prosperity and advancement of the Indians and an endless amount of trouble and annoyance to the Department. In order to carry out the policy of the Government to allot lands in severalty to these Indians, with a view of their eventual absorption into the body politic, it is absolutely necessary to extinguish the claim of said company to the land in question, and, in my opinion, that should be done at once.

The suggestion was made in the report that the Secretary be given authority to negotiate with said company for the relinquishment of its right at not to exceed \$10 per acre, which price is stated to be "not an exorbitant one."

The appropriation bill of 1895 provided:

That the Secretary of the Interior be, and he is hereby, authorized to negotiate with the Ogden Land Company for the purchase of the interests said company may possess, if any, in the Cattaraugus Indian reservations in the State of New York.

Such negotiations were had as developed the fact that the release of this claim or title to the United States could be procured at \$5 per acre. The Secretary of the Interior submitted the question of title to the Department of Justice. At the time of writing this report, a report thereon has not been received. It is expected, however, within a few days, and before the bill is acted on in the House. The same title to the lands of the Tonawanda Indians was purchased by the Government of said company in 1857, at \$20 per acre. The lands were not more valuable than those in question.

The provisions of the bill, carrying no appropriation, which are new, are as follows:

That all children born of a marriage between a white man and an Indian woman shall have the same rights and privileges to the property and annuities of the tribe to which the mother belongs, by blood, as any other member of the tribe; and no prior act of Congress shall be so construed as to debar such child of such right: *Provided*, That nothing herein shall conflict with the provisions of existing treaties.

And

Provided, That on and after the first day of December, 1896, next, the act or acts of the legislature of the State of Washington relative to the removal of the restrictions as to the sale of the allotted lands of the Puyallup Indians shall be, so far as the Congress and Government of the United States are concerned, in full force and effect.

And

That the adult allottees of section 21 and 28, in township 27 north, of range 24 east, in the Wyandotte Reservation, Indian Territory, may sell and convey the land allotted to them in said sections: *Provided*, That the land so conveyed shall not exceed one half of the land owned by each of them within the limits of the Quapaw Agency, subject to the approval of the Secretary of the Interior.

MRS. JULIA A. HUMPHRIES.

FEBRUARY 18, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PUGH, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 905.]

The Committee on War Claims, to whom was referred the bill (H. R. 905) for the relief of Mrs. Julia A. Humphries, submit the following report:

Mrs. Julia A. Humphries, the claimant in this bill, was a resident of Fredericksburg, Va., during the late war. In May, 1864, her house and store were used by the Federal Army for hospital purposes, and the stock of goods, mostly groceries and provisions, which were there for sale were taken by the soldiers and used for the sick. The repairs to the house and store made necessary by this occupancy amounted alone to \$1,200. During the siege of Fredericksburg, Va., in 1862, Mrs. Humphries lost everything she possessed, except some few securities, by the shelling and subsequent pillage of her home by the Federal troops, her losses then, in addition to her subsequent losses, amounting to \$3,000.

It is shown by the evidence that the claimant's total loss from both occurrences was about \$12,200.

She was loyal to the Union, and had two brothers in the Federal Army. Dr. Ger. T. Ribble, assistant surgeon Eleventh Regiment New York Volunteers, and Dr. William Craig, assistant surgeon Twenty-sixth Regiment Pennsylvania Volunteers, both testify to her loyalty and to her faithfulness and kindness as a nurse while her house was being used as a hospital and her goods and provisions being consumed by the soldiers.

In view of the facts disclosed by the record in the case, the sum of \$10,000 will but little more than reimburse Mrs. Humphries for the losses merely which she suffered by the occupation of her house and store for hospital purposes and for the loss of the stock of goods used by the Army. The claimant needs the money, and as is shown by the evidence, is deserving of the reimbursement proposed in the bill.

The committee accordingly recommend that the bill pass.

ENOCH DAVIS.

FEBRUARY 18, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MAHON, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2735.]

The Committee on War Claims, to whom was referred the bill (H. R. 2735) for the relief of Enoch Davis, submit the following report:

This claim was before the Committee on War Claims of the Fifty-first and Fifty-second Congresses; was on each occasion favorably reported upon, but no final action was taken in the House of Representatives.

The present bill proposes to pay the claimant the same amount as was recommended by the committee on former occasions, and is identical with the bill which received favorable action by the committee of the Fifty-second Congress.

A copy of the report of the Fifty-second Congress is hereto attached and made a part of this report.

Your committee recommend the passage of the bill.

[House Report No. 278, Fifty-second Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 3176) for the relief of Enoch Davis, having examined and considered the same, report the same back to the House with a recommendation that it do pass.

A bill identically like this passed the Senate in the Fifty-first Congress and was favorably reported in the House, the House adopting the Senate report, which we now do, as follows:

[Senate Report No. 65, Fifty-first Congress, first session.]

The Committee on Military Affairs, to whom was referred the bill (S. 570) for the relief of Enoch Davis, report as follows:

Enoch Davis was a private in Company G, Sixth Iowa Infantry Volunteers. He served his original enlistment of three years and then reentered as a veteran soldier in the same regiment and company, and thereby became entitled to certain bounty, a part of which he has never received, for the reason that he was marked on the rolls of his command as having deserted.

The rolls show him to have been absent on the 21st of June, 1865, the day on which his regiment was mustered out of the service at Louisville, Ky.; hence the entry thereon that he was a "deserter." It appears, however, from his own affidavit that he left but the day before to visit friends across the Ohio River in Indiana, with no idea of deserting, but intending to return. The next day his regiment was mustered out, and there was no one to whom he could report.

Affidavits from two of his officers and several of his comrades satisfactorily show that he was with his company until the day before its discharge. They also show him to have been an excellent soldier in camps and in battle, and that he was twice wounded in battle.

Standing on the rolls as a deserter, Davis made application to Congress for a correction of his record; and under similar proof to that now filed with this committee Congress passed an act June 8, 1880, correcting his record and ordering the proper officer to give him an honorable discharge. This was done, but the disbursing officer refused, under a technicality of the law, to pay him the balance of his bounty. Hence this bill (S. 570).

It is hardly to be believed that so good a soldier, serving so long a time—up to the close of the war—would desert after the war was over and while waiting to be discharged, which would have been only one day after he absented himself from his command.

The committee, believing the absence of Enoch Davis to have been merely temporary and free from any intention of desertion, recommend that the bill do pass.

C

H. C. ARMISTEAD.

FEBRUARY 18, 1896.—Laid on the table and ordered to be printed.

Mr. HURLEY, from the Committee on War Claims, submitted the following

ADVERSE REPORT:

[To accompany H. R. 772.]

The Committee on War Claims, to whom was referred the bill (H. R. 772) for the relief of H. C. Armistead, submit the following report:

This is a claim for stores and supplies alleged to have been furnished the Army of the United States during the late war for the suppression of the rebellion by H. C. Armistead, of Colbert County, Ala.; claim stated at \$9,358.

There is no proof that the property taken ever came to the use of the United States or was taken by its authority. If the claimant were, in fact, loyal, and the property was, in fact, taken for the use of the United States troops, the claimant had a forum given him (the Southern Claims Commission) in which to prove his claim, and by his own neglect omitted to avail himself of the privilege, and his claim is barred by reason thereof. No excuse is shown for his neglect so to do.

The committee therefore report adversely and recommend that the bill do lie upon the table.

GEORGE I. SPANGLER.

FEBRUARY 18, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GRIFFIN, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 4424.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 4424) to correct the military record of George I. Spangler, having had the same under consideration, would report thereon as follows:

The soldier's record, as obtained from the War Department, shows that he was enrolled and mustered into service August 13, 1864, as a private in Company K, Two hundredth Pennsylvania Infantry Volunteers, to serve one year; that he was mustered in as a first lieutenant, same company, September 3, 1864; that he was present with his company October 31, 1864; that he was arraigned and tried before a general court-martial, convened under orders dated December 27, 1864, upon the charge of conduct unbecoming an officer and a gentleman, and using contemptuous and disrespectful language to his superior officer; that he was found guilty and sentenced to be dismissed the service with loss of three months' pay and allowances, and that the proceedings, finding, and sentence of the court were approved and promulgated in General Orders, No. 4, Headquarters Army of the Potomac, dated January 20, 1865, in which orders it was also announced that he ceased to belong to the military service of the United States from that date.

It appears from the affidavit of the beneficiary, and also those of the chaplain and a second lieutenant of his regiment, that the offense charged, and upon which he was found guilty and was sentenced to dismissal, was the result of an altercation that took place between Mr. Spangler and a Captain Huber, of Company G of the same regiment, on election-day evening, November 8, 1864, in which Captain Huber and Lieutenant Spangler expressed opposing views respecting the merits of the two Presidential candidates and the character of their respective supporters. The controversy became heated and the language used severe. Captain Huber, being a superior officer, apparently felt grieved at the language used by Lieutenant Spangler, and accordingly preferred charges against him, presumably as the most effectual way of affording solace to his offended dignity. It appears that the occurrence took place at regimental headquarters at a social gathering of the officers of the regiment, none of the parties involved in the controversy being on duty, and each contributing to the conversation which resulted in the use of the expression constituting the "contemptuous and disrespectful language" set forth in the charge, and for the use of which Lieutenant Spangler was court-martialed.

The evidence shows that it was nothing more than a war of words and conflict of ideas when neither of the officers were on duty, at an informal gathering of many of the officers of the regiment, at which political matters were discussed pro and con, and when the colonel of the regiment ordered the discussion to cease it immediately came to an end.

Your committee believing that the foundation for the charge upon which the sentence of dismissal is predicated was too trivial to justify the dismissal of an officer from the service, as well as the fact that there was some provocation on the part of Captain Huber, and in view of the presumption that similar occurrences have, in the judgment of your committee, many times happened without any notice whatever being taken of them, and as it was an extraordinary proceeding to take advantage of expressions dropped in social converse and under the circumstances detailed in this instance, we believe that Mr. Spangler has unjustly suffered for an exceedingly trivial and, at the most, technical offense, and therefore recommend that the bill do pass.



IMPROVEMENT OF HARBOR OF MANITOWOC, WIS.

FEBRUARY 18, 1896.—Ordered to be printed.

Mr. COOPER, of Wisconsin, from the Committee on Rivers and Harbors,
submitted the following

REPORT:

[To accompany H. Res. 121.]

The Committee on Rivers and Harbors, to whom was referred the resolution of the House (House Res. No. 159) calling upon the Secretary of War for certain information concerning the proposed improvements of the harbor of Manitowoc, in the State of Wisconsin, having considered the same, report in lieu thereof the accompanying joint resolution (H. Res. 121), with the recommendation that the said joint resolution do pass.



ABRAHAM O. WAUCOP.

FEBRUARY 18, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GRIFFIN, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 5127.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 5127) for the relief of Abraham O. Waucop, having had the same under consideration, would report thereon as follows:

A similar bill was considered by the Committee on Military Affairs, House of Representatives, third session Fifty-third Congress, which committee recommended the passage of such bill.

The soldier's record, as set forth in such report, as found in Senate Report No. 1015, is stated to be as follows:

It appears from the records of the War Department that the beneficiary, Abraham O. Waucop, was enrolled and mustered in Company F, Fifteenth Regiment Ohio Volunteers (first three months' service), on the 17th day of April, 1861, and was honorably discharged, by reason of the muster out of said company, on the 27th day of August, 1861.

That on the 10th day of September, 1861, he reenlisted in Company F, Benton Cadets, Missouri Volunteers, and served as such soldier until the 8th day of January, 1862, when he was honorably discharged by reason of the muster out of said company.

That on the 22d day of August, 1862, he again reenlisted, and was mustered in and appointed first sergeant Company C, One hundred and eighteenth Ohio Volunteers, September 15, 1862. On March 1, 1863, he was promoted to second lieutenant, same company; on May 14, 1864, he was wounded at the battle of Resaca, Ga. On the 4th of March, 1865, he was promoted to captain and assigned to duty with Company F, same regiment.

It is further noted in the report from the War Department that two days later (March 6) he absented himself from his command without authority, and thereafter his movements or whereabouts do not appear.

That on the 28th day of March, 1865, his regimental commander reported that he had rendered himself unfit for duty and had been absent without leave since March 6, 1865, and recommended his dismissal from the service.

That on the 17th day of April, 1865, the case was submitted to General Grant, who recommended that Captain Waucop be dishonorably dismissed from the service for absence without leave, whereupon he was summarily dismissed on the 24th of April, 1865, by Special Order, No. 183, War Department, Adjutant-General's Office.

It appears from the verified statements of two of his comrades, Sergeant Ailes and Captain Rhodes, of the same regiment (two reputable gentlemen), and the petition of the survivors of the regiment that at and during the time he is reported as being absent without leave (and for which he was afterwards dismissed from the service) he was actually unable to march with the regiment, and so informed the surgeon at the time. That he voluntarily rejoined his regiment after his recovery in the latter part of April, 1865, at Raleigh, N. C., where he was arrested and charges of absence without leave preferred against him. That at the time a copy of the charges was served on him he was given the alternative of resigning or standing a court-martial.

That he refused to resign and demanded a trial and remained with the regiment for that purpose until the 15th day of May, 1865, when he was officially notified of his summary dismissal by special order, as above stated. That no opportunity was

ever given him to be heard in answer to said charges, and that he labored under the impression that he would be accorded a trial before a court-martial until the day he received official notice of his dismissal from the service.

His honorable discharge, as provided in this bill, is also prayed for by substantially all of the surviving officers and members of the One hundred and eighteenth Ohio Volunteer Infantry who served with him in the Army, about 100 in number.

In view of the facts, and especially in view of the fact that Mr. Waucop served his country faithfully and well for nearly four years, and placing special stress upon the manner in which he was summarily dismissed from the service without a hearing, and also that it appears that he never in fact deserted nor intended to desert, your committee feels that it would be but an act of simple justice to remove the stain of dishonor from his record by granting him an honorable discharge, and therefore adopts and approves the former report herein referred to and recommends the passage of the bill.

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PETER F. KENDALL.

FEBRUARY 18, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HATCH, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2737.]

The Committee on War Claims, to whom was referred the bill (H. R. 2737) for the relief of Peter F. Kendall, submit the following report:

It is asked that House bill No. 2737, to confer jurisdiction upon the Court of Claims of the United States to determine the claim of Peter F. Kendall, of New Orleans, La., against the Government for services rendered the United States under contract, etc., be passed.

The facts are that the quartermaster of the United States at New Orleans entered into a written contract with the claimant in December, 1865, after the war had closed, wherein and whereby, for a consideration of \$15,000, the claimant undertook to raise, and did raise, the United States steam transport *Porter*, sunk in Mobile Bay. After raising and docking said vessel Mr. Kendall called on the quartermaster for his pay, but instead of paying him, the quartermaster declined to do so, and tore up the duplicate copy of the contract which Kendall produced in proof of the bargain, giving as a reason for declining to pay claimant for the service rendered, that the claimant having lately been in Confederate service he would not pay him.

The quartermaster not only did not pay claimant for raising the vessel but also appropriated claimant's boats, scows, pumps, etc., used in raising the vessel, worth fully \$4,000.

This left the claimant without any chance to obtain pay. He could not go to the courts for redress, for they were not then open to him.

It was not until December, 1868, that the proclamation of amnesty was issued, whereby claimant was assured that he could claim his rights of property.

Accordingly, on November 22, 1872, he brought suit in the Court of Claims for pay for his said services and for his appliances which had been seized by the United States troops at New Orleans. (See printed record herewith.)

His case drifted along in said court for a number of years, until May 5, 1879, when same was dismissed by the court on the ground that claimant had not brought suit within six years from the time he completed his work of raising said vessel.

The decision of the court is herewith as a portion of the record of the case in said court.

The claimant, believing that the statute of limitations ought not to be urged against him, appealed the case to the Supreme Court, which affirmed the opinion of the Court of Claims on that question. (Kendall v. United States, 107 U. S., p. 123; 14 C. Cls. R., pp. 122, 374.)

In deciding the case, however, Justice Harlan, who announced the decision of the Supreme Court, said of the claimant:

His remedy, if the claim be a valid one, is to apply to the legislative department of the Government.

But the claimant was discouraged by repeated defeats, and has not sought aid from the "legislative department" until the introduction of this bill.

From an examination of the record it will be seen that claimant has a meritorious claim, and that he should not be shut out by any statute of limitations. The service he rendered the Confederacy should, in good conscience, have no more to do with disallowing his honest earnings after the war had closed in 1865 than if he had rendered such services to the United States in 1895.

The Confederacy had lain down its arms and surrendered all hostilities eight months before the claimant raised the Government vessel from the bottom of Mobile Bay; and why should claimant be prevented from earning an honest livelihood just because he had, for about a year, served the Confederacy, in a war long before ended, in the capacity of engineer.

What right had the quartermaster to disregard a contract duly and formally entered into after the war with a man who had served a now defunct confederacy? The only answer to such question is that the quartermaster willed to violate it. It was not because it was right to do it. But military law had ruled for a long time, and the claimant did not know but what military arbitrary will must still be the determining power for him, because he had been a rebel, until the statute of limitations had cut him out of his just dues.

The way to right this flagrant wrong is to waive the statute and allow the claimant to go before the court on the merits of his claim; and if he can establish same by legal evidence the judgment of the court will allow him what he should be paid.

Your committee, in view of the foregoing statement of facts, report back the bill and recommend its passage.

[United States Court of Claims. *Peter F. Kendall v. The United States*. No. 6830. Filed November 22, 1872.—J. R.]

PETITION.

To the honorable the Court of Claims:

Peter F. Kendall, of the city of New Orleans and State of Louisiana, complaining of a wrong, by breach of contract, respectfully prefers his petition as follows, to wit:

First. That he is a citizen of the United States and resident in the State of Louisiana.

Second. That during the late rebellion the United States owned and used in their service a valuable steam transport called *Porter*, which, by hostile means used in aid of the rebellion, was sunk in Mobile Bay, in the State of Alabama; and petitioner owning and having in his possession engines, pump, and other apparatus adapted to the business of raising sunk boats and vessels, and understanding that business, one Captain ——— Steward, in the service of the United States as assistant quartermaster and having competent authority, proposed to petitioner to pay him for and on behalf of the United States the sum of (\$15,000) fifteen thousand dollars if he would raise the said steam transport *Porter*, sunk in Mobile Bay, as aforesaid. Whereupon a contract in writing was duly made and entered into by and between your petitioner on the one part and the United States on the other part, whereby your petitioner undertook and engaged to raise the said steam transport *Porter*, and in consideration of which service the United States engaged and became obligated to pay to him the said sum of fifteen thousand dollars. Relying on the validity and binding obligation of said contract, and the pledge of the public faith thereby

involved, your petitioner went to work in the use of his machinery and apparatus aforesaid, and at great expense to himself, and performed the said contract on his part, fully and to the letter, by raising the said steam transport and restoring the same to the service of the United States, and which was subsequently sold by the United States for a large amount, and is still in use on the Mississippi River.

Third. Your petitioner, after the performance of the said contract on his part as aforesaid, called on the said Captain Steward and, presenting the duplicate of said contract held by him, respectfully requested the payment of the said compensation, which had been promised him as aforesaid, but the said Steward not only refused the payment, but took your petitioner's duplicate of the contract and tore it up and destroyed it in his presence, by means of which your petitioner is unable to attach a written copy of said contract to his petition. But the said contract, in writing, being on file in the War Department of the United States, he prays that an order of this court be made, requesting a copy thereof for use in this case.

Fourth. Your petitioner further states that he was unfortunately in the service of the Southern Confederacy until the close of active hostilities, and was, therefore, deprived of an effective remedy for redress in the premises in the courts of the United States at the time of the commission of the wrong aforesaid. But he avers that he is entitled to and has received full pardon and amnesty granted by the authority of the United States, as promulgated in the proclamation of the President of the 25th of December, 1868, whereby his disabilities were removed, and he was from that time restored to all his rights, privileges, and immunities under the Constitution and laws of the United States.

Fifth. Petitioner therefore avers that he is entitled to receive from the United States the said sum of fifteen thousand dollars, with interest thereon from the ——— day of ———, A. D. 1865, on account of said contract and the valuable service rendered under it as aforesaid.

Sixth. Your petitioner further represents that not only did said assistant quartermaster, Steward, refuse payment and destroy petitioner's duplicate of the contract as aforesaid, but he seized the engines, pump, and machinery belonging to petitioner, which he (petitioner) had used in raising the said steam transport, and appropriated the same to the use and benefit of the United States. And the said engines, pump, and apparatus having been taken from petitioner and appropriated to the actual use and benefit of the United States as aforesaid, and petitioner having waived the tort, an implied contract has arisen, requiring on the part of the United States the payment to petitioner of the amount which the said engines, pump, &c., were fairly and reasonably worth at the time and place of the seizure of the same as aforesaid. And petitioner avers that the said engines, pump, &c., were fairly and reasonably worth (\$4,000) four thousand dollars at the time and place of their seizure as aforesaid, which amount, on account of said implied contract, your petitioner is entitled to receive from the United States.

Wherefore petitioner asks judgment for nineteen thousand dollars, with the interest thereon.

P. F. KENDALL, *Petitioner.*

T. W. BARTLEY & J. G. EUSTIS,
Attorneys for Claimant.

STATE OF LOUISIANA,
City of New Orleans, ss:

Personally appeared before me the subscriber, a commissioner of the United States in and for the city and State aforesaid, Peter F. Kendall, to me personally well known, who made oath, in due form and according to law, that the statements made in the foregoing petition are true; that no assignment or transfer of the claim as therein set forth, or any portion thereof or any interest therein, has ever been made.

P. F. KENDALL.

Witness my hand and seal this 12th day of November, A. D. 1872.

[L. S.]

ALFRED INGRAHAM,
Commissioner of the United States.

[In the United States Court of Claims. Peter F. Kendall v. The United States. No. 6830. Filed March 28, 1879.—J. R.]

AMENDMENT TO THE PETITION.

The claimant now comes and by leave of the court amends the petition in this case by the addition of the following averments, to wit:

First. That the contract, in the petition mentioned, was made and entered into some years prior to the filing of the petition, to wit, on or about the 1st of November, 1865; and the refusal of the quartermaster, acting for and on behalf of the

United States, to pay the claimant the said stipulated compensation for the said service contracted for, after the said sunk steamer had been raised, and placed on or at the wharf in Mobile Bay, as in the petition is averred, took place and occurred some years ago, to wit, on or about the last day of December, 1865.

Second. That by virtue of the twelfth section of the statute of the 3d of March, 1863, for the reorganization of the Court of Claims, it was provided that in order to authorize the said court to render a judgment in favor of any claimant, if a citizen of the United States, it should be set forth in the petition that the claimant had at all times borne true allegiance to the Government of the United States, and whether a citizen or not, that he had not in any way voluntarily aided, abetted, or given encouragement to rebellion against the said Government. And the rules of the Court of Claims, in conformity with said statute, made it an essential requisite that the petition setting forth the above fact should be verified on oath.

This claimant, therefore, being under the disability in the petition mentioned, could not institute his suit within the jurisdiction of this court on a petition verified on oath, until the said disability was removed by the general pardon and amnesty of the 25th day of December, 1868.

PETER F. KENDALL.
By T. W. BARTLEY,
His Attorney.

THE CITY OF WASHINGTON,
District of Columbia, ss:

Personally came, T. W. Bartley, this 28th day of March, 1879, and made oath in due form and according to law, that he is the duly authorized attorney of the above-named claimant, and that the statements made in the foregoing amendment to the original petition are true, according to his knowledge, information, and belief.

T. W. BARTLEY.

Sworn to and subscribed before me this 28th March, 1879.

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

[In the Court of Claims of the United States. December term, 1878. Peter F. Kendall v. The United States. No. 6830.]

And the said defendants, by their Attorney-General, say that the amended petition filed March 28, 1879, is not sufficient in law.

THOMAS SIMONS,
Assistant Attorney-General.

[In the United States Court of Claims. December term, A. D. 1872. Peter F. Kendall v. The United States. No. 6830.]

And the said defendants, by their Attorney-General, come and make answer to the petition of the claimant herein; and, not confessing the same, or any part thereof, deny each and every the allegations therein contained, and call for strict proof of the same.

And as to so much of the said petition as sets forth and avers that the said United States are indebted to the said claimant in the sum of \$19,000, the said defendants say that they are not indebted to the said claimant in the said sum of money, nor any part thereof.

And as to so much of the said petition as avers that the said claimant has at all times borne true faith and allegiance to the Government of the United States, and never voluntarily aided, abetted, or given encouragement to rebellion against the said Government, the said defendants deny the said allegation.

WILLIAM MCMICHAEL,
Assistant Attorney-General.

[In the Court of Claims of the United States. December term, 1873. Peter F. Kendall v. The United States. No. 6830.]

PLEA.

Now come the defendants, by their Attorney-General, and say that the claimant herein should not further have or maintain his suit against the defendants, for the reason that the petition of the claimant was not filed in this court nor transmitted to it within six years after the claim therein set forth first accrued.

Wherefore the defendants ask judgment, etc.

JOHN GOFORTH,
Assistant Attorney-General.

[United States Court of Claims. Peter F. Kendall v. The United States. No. 6830.]

EVIDENCE FOR CLAIMANT.

Deposition of John K. Eichelberger, for claimant, taken at New Orleans, La., on the 8th day of January, 1873.

J. G. Eustis, attorney for claimant; F. F. Case, attorney for defendant.

First general interrogatory by the commissioner. Please to state your name, your occupation, your age, your place of residence the past year; whether you have any, and if any, what, interest, direct or indirect, in the claim which is the subject of inquiry; and whether and in what degree you are related to the claimant.

My name is John K. Eichelberger. I am a carpenter by occupation. I am aged 56 years of age. My residence during the past year has been in the city of New Orleans; and I have no interest, direct or indirect, in the claim which is the subject of inquiry; and I am not related to the claimant.

Examination in chief by J. G. EUSTIS, Esq., attorney for the petitioner:

Question 1. Where did you reside in November, 1865?

Answer. In Mobile, Ala.

Question 2. Were you employed by the United States Government? If so, state in what capacity.

Answer. I was employed by Mr. Howard, who I presumed was an officer of the United States in the Quartermaster's Department. I was employed as carpenter.

Question 3. Who had charge of the steamer *Porter*, at that time, in raising her?

Answer. Mr. Peter F. Kendall.

Question 3½. Was Mr. Peter F. Kendall working at that time in raising the steamer *Porter*?

Answer. He was.

Question 4. How long did you continue to work as carpenter in raising the steamer *Porter*?

Answer. I continued on board until she was raised and put in dock.

Question 5. State for what length of time.

Answer. I believe about three or four weeks.

Question 6. Was she raised and put in the dock?

Answer. She was raised and put in dock.

Question 7. Did you hear of any dissatisfaction by anybody when she was put in dock concerning the work done by claimant?

Answer. I heard of none at all.

Question 8. How long was the steamer *Porter* in dock, and what was her condition when she left?

Answer. She remained in dock about three days, and when she was pronounced perfectly seaworthy she went out of dock.

Question 9. Was the work done by Kendall done in a workmanlike manner, skillfully?

Answer. It was.

Question 10. State what conversation took place between Captain Howard, assistant quartermaster, at the time you were sent down to the steamer *Fulton*, and yourself.

Answer. I was instructed by Captain Howard to work on the *Porter*, under the orders of Mr. Kendall, to cut the decks, so that Mr. Kendall could insert his pumps.

Question 11. What material and apparatus did Kendall have on board the *Porter* in raising her?

Answer. I believe Mr. Kendall had some two if not three steam pumps, and besides he had several hand pumps. I believe the largest pump was calculated to run 10,000 gallons a minute. I do not know the capacities of the other pumps. Each pump had an engine and boiler attached.

Question 12. Who paid you for your services as carpenter for the work you did on the *Porter*?

Answer. I believe Captain Howard.

Question 13. In what capacity was Captain Howard acting at that time?

Answer. He was acting in the capacity of raising sunken boats for the United States Government in the harbor of Mobile.

Question 14. State whether or not Captain Howard told you that Peter F. Kendall had a contract with the United States for raising sunken vessels.

Answer. Captain Howard did not tell me so, but I was so informed by the captain of the *Porter*.

Cross-examination by F. F. CASE, esq., for the United States:

Cross-question 1. Were you ever in the employ of the Confederate States?

Answer. I was employed by them as a mechanic.

Cross-question 2. How long were you so employed?

Answer. Over a year.

Cross-question 3. What were your special duties?

Answer. Working as a ship carpenter.

(The foregoing interrogatories objected by Mr. Eustis, counsel for petitioner, on the ground that said questions do not relate to the same matter brought out in the examination in chief.)

Cross-question 4. Were you acquainted with Mr. Kendall at the time of the origin of this claim?

Answer. I was never acquainted with him until he came on board of the *Porter*.

Cross-question 5. Did you ever see the contract between the claimant and the Government?

Answer. I never did.

Cross-question 6. Have you ever had any conversation with the claimant in reference to this claim, or have you ever made any affidavit in reference thereto?

Answer. I have never had any other conversation with the claimant than a request to testify in this claim, and I have never made any affidavit in reference to said claim.

Cross-question 7. You stated you were employed by Mr. Howard; was it in writing, or verbally?

Answer. It was verbally.

Examination in chief resumed:

Question 15. Where was the steamer *Porter* sunk?

Answer. In Mobile Bay.

Question 16. What was her capacity?

Answer. Some 500 tons.

(Counsel for the United States objects on the ground that the capacity of said vessel is to be ascertained by her admeasurement at the custom-house.)

Second general interrogatory by the commissioner. Do you know of any other matter relative to the claim in question? If you do, state it.

Answer. I know nothing further.

JOHN K. EICHELBERGER.

Sworn to and subscribed before me this 8th day of January, 1873.

ROBERT J. KER,
United States Commissioner.

Deposition of M. W. Francis, for claimant, taken at New Orleans, La., January 8, 1873.

First general interrogatory by the commissioner. Please to state your name, your occupation, your age, your place of residence the past year; whether you have any, and if any, what, interest, direct or indirect, in the claim which is the subject of inquiry; and whether and in what degree you are related to the claimant.

Answer. My name is M. W. Francis. I am a diver and wrecker. I am aged 35 years. My residence the past year has been the city of New Orleans. I have no interest, direct or indirect, in this claim, and I am in no manner related to the claimant.

Examination in chief by J. G. EUSTIS, Esq., attorney for petitioner:

Question 1. Do you know the claimant, Peter F. Kendall? If so, state how long.

Answer. I am acquainted with the claimant. I got acquainted with him on board the *Porter* about the time of raising her.

Question 2. Where did you reside, and what was your occupation at that time?

Answer. I resided in the city of Mobile, and my occupation was that of a diver and wrecker. I have followed that business for the last fifteen years.

Question 3. Do you know in what business the claimant was engaged in the winter of 1865, the time you first met him?

Answer. When I first met the claimant he was engaged in raising the steamer *Porter*. This was about the year 1865.

Question 4. Did you go on board of the *Porter* at that time?

Answer. I was sent for by Capt. Fred. Howard, who introduced me to the United States quartermaster, who asked me to go on board of the steamer *Porter*. Fred. Howard was acting as assistant quartermaster and master of transportation for the United States Government. I was asked by the quartermaster to go on board to see how Mr. Kendall was progressing with the work, and if Mr. Kendall did not fulfill his contract by a certain time, which was stated, the work would be taken from him, and I was to go on with the work and raise the boat. I went on board and found Mr. Kendall engaged in the work with steam engines and other facilities for raising the boat, which he was about to accomplish. I do not know whether she was raised that day or the next, and I reported these facts to the quartermaster. There were on board large marine pumps and everything necessary to raise the

steamer. I know she was raised that day, the day I went on board, or the day after. I am not certain as to the precise time, but she was raised within the limits of the time allowed by the contract. The steamer *Porter* was in the service of the United States after she was raised.

Question 5. State the reasons why you were sent for by the United States quartermaster.

Answer. The reason was because confidence was reposed in me from the fact that I had been in the United States service under Commodore Farragut, and the quartermaster desired to get reliable information as to how the work was executed on the *Porter*. I mean I was in the service of the United States in my occupation of diver and other capacities.

Question 6. State whether the work on the *Porter* was done in a workmanlike manner.

Answer. It was done successfully.

Question 7. In what capacity was Capt. Fred. Howard acting at the time he introduced you to the United States quartermaster?

Answer. He was acting as acting assistant quartermaster and master of transportation, under the United States quartermaster at Mobile.

Question 8. State any acts by you believed he, Capt. Fred. Howard, acted as acting assistant quartermaster.

Answer. From his taking great personal interest in the affairs of the Quartermaster's Department of the United States, and from the fact that I saw his name signed to many orders issued for the United States.

Question 9. What was the custom in making contracts for raising vessels in regard to furnishing carpenters and the crew?

Answer. In making the contract it is usual to furnish the diver and the apparatus, and the carpenter and crew are furnished by the vessel or boat to be raised.

(Counsel for the United States objects to this interrogatory on the ground that the contract itself is the best evidence.)

Question 10. What materials and apparatus did Kendall have on board the *Porter* for the purpose of raising her?

Answer. He had a 6-inch pump, with proper appliances; an 11-inch pump, with proper appliances; and a 12-inch pump, with proper appliances. I mean by proper appliances a boiler and engine. The 12-inch pump I think had an engine and boiler; the 6-inch pump I know had an engine and boiler.

Question 11. What was the value of these pumps and appurtenances?

Answer. About \$5,000.

(The counsel for the United States objects to the foregoing last interrogatory on the ground that its answer will be only the opinion of the witness.)

Question 12. Were you familiar with the prices of pumps and appliances at that time?

Answer. I was. I saw them purchased and knew their value.

Question 13. Did you see the said pumps and appliances in the use of the United States afterwards?

Answer. The 6-inch pump I saw afterwards in the custody and possession of the United States officers in the city of Mobile, in a yard, and it was afterwards sold at auction in Mobile.

Question 14. State the value of the pump and appliances.

Answer. It was worth from about \$2,500 to \$3,000.

Question 15. Were you present at said sale?

Answer. I was present at the sale and made a bid.

Cross-examination by F. F. CASE, Esq., for the United States:

Cross-question 1. You stated you were employed by Admiral Farragut as a diver. For how long a time were you so employed?

Answer. I was employed by Admiral Farragut, as a diver and in other capacities, from the year 1862 until the fall of Mobile. I believe it was in the fall of 1865; I do not remember the date.

Cross-question 2. Did you ever see a contract between the United States Government and the claimant?

Answer. I have not.

Cross-question 3. Did you ever make a memorandum in reference to this claim?

Answer. I do not remember that I did. At that time I was in the habit of making a log of every day's business. I might have a memorandum, but I do not remember that I did.

Cross-question 4. Did you ever have any conversation with the claimant about this claim?

Answer. I never had, with the exception of one conversation with him recently, when he said he was glad to meet me, as he wanted me to give my testimony in his claim.

Cross-question 5. Do you know the cause of the sinking of the *Porter*?

Answer. It was caused by her striking against some obstruction.

Cross-question 6. What kind of an obstruction was it?

Answer. I do not know.

Second general interrogatory by the commissioner. Do you know of any other matter relative to the claim in question? If you do, state it.

Answer. The quartermaster was very anxious to have the steamer raised, as she was in great danger of being lost, and was apprehensive he would be blamed for it. The compensation for raising such a boat at that time was worth from \$20,000 to \$25,000, the boat furnishing the crew.

M. W. FRANCIS.

Sworn to and subscribed before me this 8th day of January, 1873.

ROBERT J. KER,
United States Commissioner.

Deposition of John A. Weeks, for claimant, taken at New Orleans, La., on January 18, 1873.

First general interrogatory by the commissioner. Please to state your name, your occupation, your age, your place of residence the past year; whether you have any, and, if any, what interest, direct or indirect, in the claim which is the subject of inquiry; and whether and in what degree you are related to the claimant.

Answer. My name is John A. Weeks. My occupation is a coppersmith. My place of residence during the past year has been the city of New Orleans. I have no interest in said claim, and I am in no manner related to the claimant.

Examination in chief by J. G. EUSTIS, Esq., the attorney for petitioner:

Question 1. Are you acquainted with the claimant, Peter F. Kendall?

Answer. I am.

Question 2. How long have you known him, and where did you become acquainted with him?

Answer. I became acquainted with him some eight or ten years before the war, in the city of New Orleans—I mean the late rebellion.

Question 3. What was your occupation in the month of December, 1865, and where did you reside at that time?

Answer. My occupation was that of a coppersmith, and I resided in Mobile, Ala.

Question 4. Were you at that time in the employment of claimant; and, if so, in what capacity?

Answer. I was employed by him at that time in the capacity of coppersmith.

Question 5. In what job were you engaged at that time?

Answer. In the making of a copper suction pump for the steamer *Porter*.

Question 6. Where was the steamer *Porter*, and what was her condition?

Answer. She was sunk in Mobile Bay in 6 or 7 feet water.

Question 7. Who had charge of the job of raising her?

Answer. Mr. Kendall.

Question 8. Did he have the necessary apparatus and material on board of steamer *Porter* for the purpose of raising her?

Answer. He had.

Question 9. Did you continue to work on the *Porter* until she was raised?

Answer. I did.

Question 10. Do you know for whom the claimant was doing the job of raising the steamer *Porter*?

Answer. For the United States Government.

Question 11. State whether or not the claimant was working for the United States Government under a written contract.

Answer. He was.

Question 12. Did you see the contract? If so, when and where?

Answer. I saw the contract in the month of December, 1865, in Mobile.

Question 13. What became of that contract?

Answer. It was torn and thrown into the fire, and this took place about the time I was working on the *Porter*. I went with the claimant to the quartermaster to get my money, and it was then that the contract was torn up and thrown into the fire by the quartermaster or the master of transportation—I do not remember which. It was done, however, by a United States officer.

Question 14. What price did the Government of the United States agree to pay the claimant?

Answer. Fifteen thousand dollars.

(This question objected to by the attorney for the United States on the ground that the original contract is the best evidence.)

Cross-examination by F. F. CASE, esq., for the United States:

Cross-question 1. What was the occupation of the claimant in 1865?

Answer. Raising sunken boats and doing jobs of all sorts by which he could make any money.

Cross-question 2. Were you doing work for the claimant on board of the steamer *Porter* or in the city of Mobile?

Answer. On board of the steamer *Porter*.

Cross-question 3. Do you know what caused the steamer *Porter* to sink?

Answer. She was sunk by obstructions in the harbor.

Cross-question 4. Do you know who placed these obstructions there?

Answer. The Confederate government.

Cross-question 5. Were you ever in the Confederate service?

Answer. No, I was not.

Cross-question 6. Were you paid for your services by Mr. Kendall?

Answer. I was paid by Mr. Kendall.

Cross-question 7. You state you saw the contract between the Government and Mr. Kendall; do you know in whose handwriting it was?

Answer. I do not know.

Cross-question 8. Were you present when this contract was drawn up?

Answer. I was.

Cross-question 9. By whom was the contract torn up?

Answer. By an employee of the United States, whose name I do not recollect.

Cross-question 10. Do you know whether or not he was an officer of the United States?

Answer. He was.

Cross-question 11. Do you recollect what was said at the time the contract was torn up?

Answer. There were some angry words passed between the parties.

Cross-question 12. What words do you recollect?

Answer. I recollect a few words of the conversation to the effect that the boat had been sunk by the Confederate government, and he might look to the Confederate government for his pay.

Cross-question 13. What was your occupation between the years 1861 and 1865?

Answer. A sugar boiler, working on plantations in Louisiana.

Cross-question 14. Were you in the line of the Confederacy at the time of the late civil war?

Answer. I was.

Cross-question 15. Have you any fees, benefit, or result whatever in the termination of this claim?

Answer. None whatever, in the least degree.

Second general interrogatory by the commissioner. Do you know of any other matter relative to the claim in question? If you do, state it.

Answer. I know of nothing further.

JOHN A. WEEKS.

Sworn to and subscribed before me this 18th day of February, 1873.

ROBERT J. KER,
United States Commissioner for the District of Louisiana.

[In the United States Court of Claims. *Peter F. Kendall v. The United States*. No. 6830. Filed December 16, 1878.—J. R.]

BRIEF FOR CLAIMANT.—STATEMENT OF THE CASE.

The claimant, Peter F. Kendall, is a citizen of New Orleans, La. During the rebellion he was in the service of the Southern Confederacy, in the capacity of engineer. After the rebellion was over, understanding the business of raising sunk boats and vessels, and owning and having in his possession engines, pumps, and other apparatus adapted to that business, he was employed by a quartermaster of the United States, known as Captain Steward, then, to wit, in November, 1865, stationed at Mobile, in the State of Alabama, to raise a valuable steam transport called *Porter*, belonging to the United States, which had been sunk in Mobile Bay, on a special contract in writing for the sum of \$15,000, to be paid him on the completion of the undertaking and restoration of the steamer on the dock to the United States. Relying on the obligation and validity of the contract, the claimant at great expense and exertion on his part performed the service and restored the steamer, which the United States afterwards sold for a large amount of money. On

the performance of his part of the contract, he called on the quartermaster, and, presenting his contract, respectfully requested his stipulated compensation, when the quartermaster, taking his contract from his hands, tore it into pieces and threw it into the fire and burned it up, saying to him, "You are a rebel, and you must look to the Confederate government for your pay."

And not only did the quartermaster thus refuse to compensate him in any way whatever, but he sent a squad of soldiers and seized his engines, pumps, and apparatus, and took them from him by force wrongfully and in violation of law.

POINTS IN THE PROOF.

First. The destruction of the written contract by the quartermaster, and the stipulation of its contents to pay the claimant \$15,000 for its performance, is shown by the testimony of the witness, John A. Weeks. (See his deposition, p. 6 of the evidence.)

Second. The performance of the contract by the claimant in raising and restoring the steamer is shown in the testimony of John K. Eichelberger (pp. 1 and 2 of evidence), of M. W. Francis (pp. 3 and 4 of evidence), and of John A. Weeks (pp. 6 and 7 of evidence).

Third. The claimant having been in the service of the Confederate government during the rebellion, was after the rebellion restored to his civil rights by the general pardon and amnesty of December 25, 1868; after which, within six years, he brought this suit in this court for the recovery of his rights.

By T. W. BARTLEY,
Attorney for Claimant.

[Court of Claims. Peter F. Kendall v. The United States. No. 6830. Filed May 5, 1879.—J. R.]

ON DEMURRER.

Drake, Ch. J., delivered the opinion of the court.

The petition in this case did not show on its face the time when the alleged cause of action accrued.

The defendants pleaded to it the statute of limitation; but the plea was not filed within the time prescribed by the then existing rule of the court. The claimant moved to strike out the plea, because it had not been filed within the prescribed time. The motion was overruled, because, in the judgment of the court, no plea of limitation was necessary, but as one had been filed it was entitled to remain on file.

At the time of the announcement of the judgment on that motion the court made an amendment of its rules in the following terms:

"If, upon the face of the petition, the claim seems to have first accrued more than six years before the petition was filed, the claimant must aver therein the existence and period of duration of some disability, recognized by law, which prevented his filing his petition within that time, in default whereof it will be considered that no such disability existed, and the petition may be dismissed on motion. The averments in regard to any such disability shall be held to be put in issue by the general traverse.

"If, upon the face of the petition, the claim does not seem to have first accrued more than six years before the petition was filed, but the fact appears in evidence, the defendants may take advantage thereof at any time, by motion; but upon the claimant's request leave will be granted to him to amend the petition by averring the existence and duration of a disability, and to make proof thereof."

In consequence of the adoption of this rule the claimant amended his petition by adding thereto the following clauses:

"First. That the contract in the petition mentioned was made and entered into some years prior to the filing of the petition, to wit, on or about the 1st of November, 1865; and the refusal of the quartermaster, acting for and on behalf of the United States, to pay the claimant the said stipulated compensation for the said service contracted for, after the said sunk steamer had been raised and placed on or at the wharf in Mobile Bay, as in the petition is averred, took place and occurred some years ago, to wit, on or about the last day of December, 1865.

"Second. That by virtue of the twelfth section of the statute of the 3d of March, 1863, for the reorganization of the Court of Claims, it was provided that in order to authorize the said court to render a judgment in favor of any claimant, if a citizen of the United States, it should be set forth in the petition that the claimant had at all times borne true allegiance to the Government of the United States, and, whether a citizen or not, that he had not in any way voluntarily aided, abetted, or given encouragement to rebellion against the said Government. And the rules of the Court of Claims, in conformity with said statute, made it an essential requisite that the petition setting forth the above fact should be verified on oath.

"This claimant, therefore, being under the disability in the petition mentioned, could not institute his suit within the jurisdiction of this court on a petition verified on oath until the said disability was removed by the general pardon and amnesty of the 25th day of December, 1868, and his cause of action did not accrue to him until that time."

To the petition, as thus amended, the defendants demur; and the question raised by the demurrer is whether the amendment avoids the statute of limitation by setting up a recognized legal disability on the part of the claimant to bring the suit within six years after the claim first accrued.

It now appears by the amended petition that the cause of action accrued on or about the last day of December, 1865; but the original petition was not filed until the 22d of November, 1872, more than six years after the cause of action is averred to have accrued.

It follows, therefore, that the claimant can not maintain his action unless the disability set up in the second clause of his amendment to the petition be such as to prevent the statute from running in bar of his claim.

The disability which he avers is, in substance, that he was a rebel during the war of the rebellion, and therefore could not make oath to a petition in this court averring that he had at all times borne true allegiance to the Government of the United States, and had not in any way voluntarily aided, abetted, or given encouragement to rebellion against the said Government.

This presents the same question that was before us in *Sierra's Case* (9 C. Cls. R., 224), where we held that a rebel can not avoid the effect of the limitation by setting up his own voluntary self-disqualification, through his acts of rebellion, to sue in this court.

The only disqualifications recognized by the law as avoiding the bar of the limitation are set forth in the proviso to the tenth section of the act of March 3, 1863 (12 Stat. L., 765, ch. 92), as follows:

"And provided further, That the claims of married women first accrued during marriage, of persons under the age of twenty-one years first accruing during minority, and of idiots, lunatics, insane persons, and persons beyond seas at the time the claim accrued, entitled to the claim, shall not be barred if the petition be filed in the court, or transmitted, as aforesaid, within three years after the disability has ceased; but no other disability than those enumerated shall prevent any claim from being barred, nor shall any of the said disabilities operate cumulatively."

Here, not only are the disabilities enumerated which may avoid the limitation, but it is expressly declared that "no other disability than those enumerated shall prevent any claim from being barred."

The disability here pleaded is plainly no barrier to the operation of the limitation; and it follows that the amended petition shows that the claimant has no cause of action which can be maintained in this court; and the petition must therefore be dismissed.



LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIA-
TION BILL.

FEBRUARY 18, 1896.—Committed to the Committee of the Whole House on the state
of the Union and ordered to be printed.

Mr. BINGHAM, from the Committee on Appropriations, submitted the
following

REPORT:

[To accompany H. R. 6248.]

In presenting the bill making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1897, the Committee on Appropriations submit the following in explanation thereof:

The estimates upon which the bill is based will be found on pages 9-72 and 83-90 of the Book of Estimates for 1897, and aggregate \$22,365,051, of which amount there is recommended in the bill \$21,444,195.51.

The appropriations for the same purposes for the current fiscal year aggregate \$22,069,778.08, being \$625,582.57 more than is recommended in the bill for the service of the fiscal year 1897.

The total amount recommended in the bill is \$920,855.49 less than the aggregate estimates submitted. The whole number of salaries specifically provided for in the bill is 10,017, being 235 less than the number estimated for and 335 less than the number provided for in the law for the current year.

Changes in the number or grade of officers or employees of the Government, and their rate of compensation, as compared with the current law, are recommended in the bill as follows:

SENATE.

The sum of \$500 additional to the assistant doorkeeper is omitted. Provision for the clerks to the committees on Woman Suffrage and Mines and Mining, at \$2,100 each, is omitted. Otherwise the bill appropriates for the officers, clerks, and other employees in the service of the Senate in the same terms as the law for the current year, except that for session employees the usual reduction in their aggregate compensation is made, growing out of the shorter term of employment during the ensuing session as compared with the present session of Congress.

HOUSE OF REPRESENTATIVES.

Provision is made for two annual clerks to the Committees on Elections, at \$2,000 each, pursuant to the resolution of the House of December 23, 1895, and also for a clerk to the Committee on Banking and Currency at \$2,000 per annum instead of at \$6 per day during the session.

Otherwise the bill appropriates for the officers, clerks, and other employees in the service of the House in the same terms as the law for the current year, except that for session employees the usual reduction is made in their aggregate compensation, growing out of the shorter term of employment during the ensuing session as compared with the present session of Congress.

TREASURY DEPARTMENT.

Secretary's Office.—In the chief clerk's office provision is made for 2 additional elevator conductors at \$720 each.

In the division of bookkeeping and warrants 2 clerks of class 3, at \$1,600 each, are omitted.

Office Auditor for the Treasury.—A net reduction of 2 clerks, at \$1,000 each, is made.

Office Auditor for the Interior Department.—Six clerks of class 3, at \$1,600 each, and 6 clerks of class 2, at \$1,400 each; in all, 12 clerks, at \$18,000, are omitted.

Office Auditor for the State and other Departments.—An additional clerk of class 2, at \$1,400, is provided for, and 1 clerk of class 1, at \$1,200, is transferred to this office from the office of the Steamboat Inspection Service.

Office Auditor for the Post-Office Department.—One clerk of class 3, at \$1,600, is transferred from this office to the office of the Steamboat Inspection Service.

Office of the Treasurer.—Twenty-five additional expert counters, at \$720 each, are provided for in the general office of the Treasurer, and a skilled laborer, at \$1,000, instead of a clerk of class 1, at \$1,200, is provided for in the force employed in redeeming the national currency in the Treasurer's Office.

Office of the Register.—One clerk of class 3, at \$1,600, and 1 clerk of class 2, at \$1,400, are omitted.

Office Commissioner of Internal Revenue.—The 24 additional employees, at salaries aggregating \$30,590, authorized for the fiscal year 1896, on account of collecting the income tax, are omitted.

Collecting Internal Revenue.—Provision for salaries and expenses of 303 additional deputy collectors, aggregating \$408,600, and for 10 additional revenue agents, aggregating \$36,000, authorized on account of the income tax, is omitted.

Office assistant treasurer at Boston.—An additional stenographer and typewriter, at \$1,000, is authorized.

Mint at Carson, Nev.—The salaries of a cashier and a bookkeeper are reduced from \$2,000 and \$1,800, respectively, to \$1,500 each.

WAR DEPARTMENT.

A clerk of class 2, at \$1,400, is transferred to the office of the Secretary from the office of the Chief of Engineers.

Public buildings and grounds.—A day watchman at Garfield Park, at \$660, is provided for.

POST-OFFICE DEPARTMENT.

In the office of the Postmaster-General the chief clerk is authorized to act as superintendent of the Post-Office Department building instead of the disbursing clerk, and a curator of museum, at \$1,000, is provided for.

Office Second Assistant Postmaster-General.—A messenger in charge of mails, at \$900, is provided for, in lieu of an assistant messenger at \$720, omitted.

Office Fourth Assistant Postmaster-General.—One additional clerk of class 2, at \$1,400, and 1 clerk of class 1, at \$1,200, are provided for.

DEPARTMENT OF JUSTICE.

The clerk in charge of accounts is given \$200 additional, and 1 additional clerk of class 3, at \$1,600; 1 clerk of class 2, at \$1,400, and 1 clerk of class 1, at \$1,200, are authorized.

LIMITATIONS.

Limitations with respect to appropriations made in the bill, not heretofore imposed, are recommended as follows:

In connection with the office of the Supervising Architect of the Treasury, the following:

That any draftsman or other employee engaged in the office of the Supervising Architect under the special appropriation made for the erection of a public building at Chicago, Ill., may, when not employed on work pertaining to said building, be temporarily detailed by the Secretary of the Treasury to other work in said office, but while so detailed no part of his compensation shall be paid out of the appropriation for said building.

In connection with the appropriation for publication of the Official Postal Guide, the following:

And the Postmaster-General may, in his discretion, cause a contract for furnishing the Official Postal Guide to be made for a term of four years.

With reference to details of clerks in the several Departments, there is recommended, as section 3 of the bill, the following:

Sec. 3. Section one hundred and sixty-six of the Revised Statutes is amended to read as follows:

"SEC. 166. Each head of a Department may, from time to time, alter the distribution among the various bureaus and offices of his Department of the clerks and other employees allowed by law, as he may find it necessary and proper to do; but all the details hereunder shall be made by written order of the head of the Department, and in no case be for a period of time exceeding sixty days: Provided, That details so made may, on expiration, be renewed from time to time by written order of the head of the Department in each particular case for periods of not exceeding sixty days. All details heretofore made are hereby revoked, but may be renewed as provided herein."

With reference to officers and administrative departments delinquent in rendering or transmitting accounts the following is proposed as section 4 of the bill, namely:

SEC. 4. So much of section twelve of the legislative, executive, and judicial appropriation act approved July thirty-first, eighteen hundred and ninety-four, as requires the Secretary of the Treasury, on the first Monday of January in each year, to make report to Congress of such officers as are then delinquent in the rendering of their accounts or in the payment of balances found due from them for the last preceding fiscal year is amended to read as follows:

"The Secretary of the Treasury shall, on the first Monday of January in each year, make report to Congress of such officers and administrative departments and offices of the Government as were respectively at any time during the last preceding fiscal year delinquent in rendering or transmitting accounts to the proper offices in Washington, and the cause therefor, and in each case indicating whether the delinquency was waived, together with such officers, including postmasters and officers of the Post-Office Department, as were found upon final settlement of their accounts to have been indebted to the Government, and who, at the date of making report, had failed to pay the same into the Treasury of the United States."

Legislative, executive, and judicial bill, 1897.

Object.	Appropriations for 1896.		Estimates for 1897.		Recommended for 1897.	
	Amounts.	No. of salaries.	Amounts.	No. of salaries.	Amounts.	No. of salaries.
<i>Senate.</i>						
For salaries of Senators.....	\$440,000.00	88	\$450,000.00	90	\$450,000.00	90
mileage	45,000.00	-----	45,000.00	-----	45,000.00	-----
For salaries, Vice-President's office.....	5,460.00	4	13,460.00	5	5,460.00	4
For salary, Chaplain.....	900.00	1	900.00	1	900.00	1
For salaries, Secretary's office.....	64,806.90	32	65,306.90	32	64,806.90	32
For salaries, annual clerks and messengers to committees.....	134,680.00	74	134,680.00	74	130,480.00	72
For salaries, Sergeant-at-Arms and Doorkeeper's office.....	120,164.00	108	116,524.00	108	115,864.00	108
For salaries, post-office	19,388.00	15	19,388.00	15	19,388.00	15
For salaries, document room	8,760.00	5	8,760.00	5	8,760.00	5
For salaries, folding room	22,320.00	22	22,320.00	22	22,320.00	22
For salaries, Architect of the Capitol's office	16,150.00	14	16,150.00	14	16,150.00	14
For salaries annual clerks to Senators who are not chairmen of committees	45,600.00	38	45,600.00	38	45,600.00	38
stationery	17,000.00	-----	16,250.00	-----	16,250.00	-----
postage stamps.....	350.00	-----	300.00	-----	300.00	-----
horses and mail wagons.....	5,000.00	-----	5,000.00	-----	5,000.00	-----
materials for folding.....	6,000.00	-----	4,000.00	-----	4,000.00	-----
folding speeches and pamphlets.....	4,000.00	-----	8,000.00	-----	4,000.00	-----
fuel, etc., for heating apparatus.....	9,000.00	-----	9,000.00	-----	9,000.00	-----
furniture.....	4,000.00	-----	4,000.00	-----	4,000.00	-----
material for furniture.....	1,000.00	-----	1,000.00	-----	1,000.00	-----
cleaning furniture.....	1,000.00	-----	2,000.00	-----	1,000.00	-----
packing boxes.....	970.00	-----	970.00	-----	970.00	-----
miscellaneous items.....	25,000.00	-----	25,000.00	-----	25,000.00	-----
miscellaneous items, Maltby Building.....	16,940.00	-----	19,065.00	-----	16,940.00	-----
repairs, Maltby Building (in sundry civil act for 1896).....	2,000.00	-----	2,000.00	-----	-----	-----
expenses of inquiries and investigations.....	25,000.00	-----	25,000.00	-----	25,000.00	-----
reporting debates.....	25,000.00	-----	25,000.00	-----	25,000.00	-----
Total, Senate	1,065,488.90	401	1,084,673.90	404	1,062,188.90	401

Capitol police.

For salaries	39,900.00	37	39,900.00	37	39,900.00	37
contingent expenses	300.00	-----	200.00	-----	100.00	-----
Total, Capitol police	40,200.00	37	40,100.00	37	40,000.00	37
For compiling Congressional Directory	1,200.00	-----	1,200.00	-----	1,200.00	-----

House of Representatives.

For salaries of Members and Delegates	1,803,000.00	360	1,833,000.00	360	1,803,000.00	360
mileage	130,000.00	-----	130,000.00	-----	130,000.00	-----
For salaries, Speaker's office	7,201.20	4	7,200.00	4	7,200.00	4
For salary, Chaplain	900.00	1	900.00	1	900.00	1
For salaries, Clerk's office	86,802.11	49	85,644.00	46	84,144.00	46
For salaries, Architect of the Capitol's office	16,480.00	16	16,480.00	16	16,480.00	16
For salaries, annual clerks and messengers to committees	50,400.00	26	50,400.00	26	56,400.00	29
For salaries, session clerks to committees	24,168.00	19	9,918.00	19	12,636.00	18
For salaries, Sergeant-at-Arms's office	15,880.00	8	15,880.00	8	15,880.00	8
For salaries, Doorkeeper's office	131,353.45	152	117,179.60	152	120,604.60	152
For salaries, post-office	22,407.12	20	20,781.20	20	21,181.20	20
hire of horses and mail wagons	3,775.00	-----	3,775.00	-----	3,775.00	-----
For salaries, official reporters	26,200.00	6	26,200.00	6	26,200.00	6
For salaries, committee stenographers	8,000.00	2	8,000.00	2	8,000.00	2
clerk hire, Members and Delegates	230,889.15	-----	93,792.16	-----	93,792.16	-----
materials for folding	5,000.00	-----	5,000.00	-----	5,000.00	-----
fuel, etc., for heating apparatus	8,000.00	-----	12,000.00	-----	8,000.00	-----
furniture	9,000.00	-----	9,000.00	-----	9,000.00	-----
packing boxes	3,218.40	-----	3,218.40	-----	3,218.40	-----
miscellaneous items	20,000.00	-----	20,000.00	-----	20,000.00	-----
stationery	51,000.00	-----	51,000.00	-----	50,000.00	-----
postage stamps	525.00	-----	525.00	-----	525.00	-----
Total, House of Representatives	2,654,199.43	663	2,519,893.36	660	2,495,936.36	662

Legislative, executive, and judicial bill, 1897—Continued.

Object.	Appropriations for 1896.		Estimates for 1897.		Recommended for 1897.	
	Amounts.	No. of salaries.	Amounts.	No. of salaries.	Amounts.	No. of salaries.
<i>Office of the Public Printer.</i>						
For salaries	\$15, 100. 00	7	\$15, 100. 00	7	\$15, 100. 00	7
contingent expenses	3, 000. 00	.....	3, 000. 00	.....	3, 000. 00	.....
Total, office of the Public Printer	18, 100. 00	7	18, 100. 00	7	18, 100. 00	7
<i>Library of Congress.</i>						
For salaries	44, 520. 00	31	58, 420. 00	44	44, 520. 00	31
For salaries, execution of copyright law	7, 200. 00	8	.....	.....	7, 200. 00	8
increase of the library	11, 000. 00	.....	13, 000. 00	.....	11, 000. 00	.....
contingent expenses	1, 000. 00	.....	1, 500. 00	.....	1, 000. 00	.....
removal of the library .....	.....	.....	5, 000. 00	.....	.....	.....
furniture for new building .....	.....	.....	50, 000. 00	.....	.....	.....
For salaries, care and management of new building for 4 months .....	.....	.....	12, 406. 66	57	.....	.....
For salaries, additional force of Librarian's assistants for 4 months .....	.....	.....	15, 353. 33	57	.....	.....
Total, Library of Congress	63, 720. 00	39	155, 679. 99	158	63, 720. 00	39
<i>Botanic Garden.</i>						
For superintendent	1, 800. 00	1	1, 800. 00	.....	1, 800. 00	1
wages and miscellaneous expenses	17, 093. 75	.....	17, 093. 75	.....	17, 093. 75	.....
Total, Botanic Garden	18, 893. 75	1	18, 893. 75	1	18, 893. 75	1
<i>Executive.</i>						
For the President	50, 000. 00	1	50, 000. 00	1	50, 000. 00	1
For the Vice-President	8, 000. 00	1	.....	.....	8, 000. 00	1
For salaries, Executive Office	35, 200. 00	21	35, 200. 00	21	35, 200. 00	21
contingent expenses	8, 000. 00	.....	8, 000. 00	.....	8, 000. 00	.....
Total, Executive	101, 200. 00	23	93, 200. 00	22	101, 200. 00	23

Civil Service Commission.

For salaries.....	91,340.00	62	98,480.00	69	91,340.00	62
traveling expenses.....	7,000.00	-----	8,000.00	-----	7,000.00	-----
Total, Civil Service Commission.....	98,340.00	62	106,480.00	69	98,340.00	62
<i>Department of State.</i>						
For salaries.....	117,820.00	80	119,620.00	82	117,820.00	80
miscellaneous and contingent expenses.....	15,200.00	-----	39,600.00	-----	15,200.00	-----
Total, Department of State.....	133,020.00	80	159,220.00	82	133,020.00	80

Treasury Department.

For salaries, Secretary's office.....	523,602.20	537	529,185.40	542	520,519.90	536
stationery.....	26,000.00	-----	30,000.00	-----	26,000.00	-----
postage.....	1,500.00	-----	1,200.00	-----	1,000.00	-----
rent of buildings.....	3,970.00	-----	3,970.00	-----	3,970.00	-----
contingent expenses.....	53,000.00	-----	61,000.00	-----	53,000.00	-----
For salaries, Supervising Architect's office.....	5,220.00	2	5,220.00	2	5,220.00	20
For salaries, Comptroller's office.....	40,400.00	20	40,400.00	20	40,400.00	102
For salaries, office of Auditor for Treasury Department.....	143,900.00	104	143,900.00	104	141,900.00	219
For salaries, office of Auditor for War Department.....	301,500.00	219	301,500.00	219	301,500.00	-----
restoring rolls.....	21,000.00	-----	21,000.00	-----	21,000.00	-----
For salaries, office of Auditor for Navy Department.....	68,080.00	50	68,080.00	50	68,080.00	50
For salaries, office of Auditor for Interior Department.....	156,940.00	120	156,940.00	120	156,940.00	120
to bring up work in Indian division.....	18,000.00	12	-----	-----	-----	-----
For salaries, office of Auditor for State and other Departments.....	84,520.00	58	84,520.00	58	87,120.00	60
For salaries, office of Auditor for Post-Office Department.....	517,540.00	448	517,540.00	448	517,540.00	448
salaries, additional force, money-order business.....	50,100.00	40	50,100.00	40	48,500.00	39
For salaries, Treasurer's office.....	264,764.80	221	289,841.60	250	282,761.60	246
salaries, Treasurer's office (reimbursable).....	61,700.00	49	61,500.00	49	61,500.00	49
For salaries, Register's office.....	70,770.00	58	70,770.00	58	67,770.00	56
For salaries, Comptroller of the Currency's office.....	103,420.00	77	103,820.00	77	103,420.00	77
salaries, Comptroller of the Currency's office (reimbursable).....	16,820.00	13	16,820.00	13	16,820.00	13
expenses special examinations and of macerating machines.....	1,600.00	-----	1,600.00	-----	1,600.00	-----
For salaries, Commissioner of Internal Revenue's office.....	259,090.00	200	259,090.00	200	259,090.00	200
salaries, under act imposing income tax.....	30,590.00	24	-----	-----	-----	-----
salaries, Commissioner of Internal Revenue's office (reimbursable).....	2,500.00	2	2,500.00	2	2,500.00	2
For salaries, Light-House Board.....	36,240.00	29	36,240.00	29	36,240.00	29

Legislative, executive, and judicial bill, 1897—Continued.

Object.	Appropriations for 1896.		Estimates for 1897.		Recommended for 1897.	
	Amounts.	No. of salaries.	Amounts.	No. of salaries.	Amounts.	No. of salaries.
<i>Treasury Department—Continued.</i>						
For salaries, Life-Saving Service	\$37, 780. 00	26	\$37, 780. 00	26	\$37, 780. 00	26
For salaries, Bureau of Navigation	26, 080. 00	21	26, 140. 00	21	26, 080. 00	21
For salaries, Bureau of Engraving and Printing	17, 450. 00	11	17, 450. 00	11	17, 450. 00	11
For salaries, Bureau of Statistics	47, 550. 00	36	49, 550. 00	37	47, 550. 00	36
collecting statistics relative to commerce .....	.....	.....	1, 000. 00	.....	.....	.....
For salaries, Secret Service division	11, 620. 00	7	11, 620. 00	7	11, 620. 00	7
For salaries, Standard Weights and Measures Office	4, 190. 00	4	4, 490. 00	4	4, 190. 00	4
contingent and expenses international committee	975. 00	.....	975. 00	.....	975. 00	.....
For salaries, Director of the Mint's office	29, 160. 00	18	29, 160. 00	18	29, 160. 00	18
freight on bullion and coin	20, 000. 00	.....	20, 000. 00	.....	16, 000. 00	.....
contingent expenses	7, 150. 00	.....	7, 150. 00	.....	7, 150. 00	.....
Total, Treasury Department	3, 064, 722. 00	2, 406	3, 062, 052. 00	2, 405	3, 022, 346. 50	2, 391
<i>Internal revenue.</i>						
For salaries and expenses of collectors and deputies, etc.	1, 710, 000. 00	.....	1, 850, 000. 00	.....	1, 710, 000. 00	.....
salaries, additional deputy collectors	408, 600. 00	303	.....	.....	.....	.....
For salaries and expenses of agents, etc.	1, 900, 000. 00	.....	2, 150, 000. 00	.....	1, 900, 000. 00	.....
salaries, additional agents	36, 000. 00	10	.....	.....	.....	.....
Total, internal revenue	4, 054, 600. 00	313	4, 000, 000. 00	.....	3, 610, 000. 00	.....
<i>Independent Treasury.</i>						
For salaries at Baltimore	23, 800. 00	16	23, 800. 00	16	23, 800. 00	16
For salaries at Boston	37, 910. 00	24	38, 910. 00	25	38, 910. 00	25
For salaries at Chicago	33, 500. 00	24	34, 220. 00	25	33, 500. 00	24
For salaries at Cincinnati	18, 760. 00	14	18, 760. 00	14	18, 760. 00	14
For salaries at New Orleans	20, 490. 00	14	20, 590. 00	14	20, 490. 00	14
For salaries at New York	192, 890. 00	116	193, 190. 00	116	192, 890. 00	116
For salaries at Philadelphia	42, 340. 00	30	42, 340. 00	30	42, 340. 00	30
For salaries at St. Louis	22, 460. 00	16	22, 460. 00	16	22, 460. 00	16

For salaries at San Francisco	27, 120. 00	15	27, 120. 00	15	27, 120. 00	15
For salaries, special agents, etc	3, 000. 00	-----	3, 500. 00	-----	3, 000. 00	-----
checks and drafts	13, 000. 00	-----	10, 000. 00	-----	10, 000. 00	-----
Total, Independent Treasury	435, 270. 00	269	434, 890. 00	271	433, 270. 00	270
<i>Mints and assay offices.</i>						
For salaries at Carson City, Nev	18, 100. 00	9	17, 300. 00	9	17, 300. 00	9
wages of workmen	15, 000. 00	-----	15, 000. 00	-----	15, 000. 00	-----
contingent expenses	7, 500. 00	-----	7, 500. 00	-----	7, 500. 00	-----
For salaries at Denver, Colo	12, 350. 00	7	12, 350. 00	7	12, 350. 00	7
wages of workmen	20, 000. 00	-----	20, 000. 00	-----	20, 000. 00	-----
contingent expenses	5, 000. 00	-----	5, 000. 00	-----	5, 000. 00	-----
For salaries at New Orleans, La	31, 950. 00	17	31, 950. 00	17	31, 950. 00	17
wages of workmen	74, 000. 00	-----	74, 000. 00	-----	74, 000. 00	-----
contingent expenses	33, 000. 00	-----	25, 000. 00	-----	25, 000. 00	-----
For salaries at Philadelphia, Pa	41, 550. 00	18	41, 550. 00	18	41, 550. 00	18
wages of workmen	275, 000. 00	-----	275, 000. 00	-----	285, 000. 00	-----
contingent expenses	75, 000. 00	-----	75, 000. 00	-----	65, 000. 00	-----
For salaries at San Francisco, Cal	41, 100. 00	18	41, 100. 00	18	41, 100. 00	18
wages of workmen	170, 000. 00	-----	170, 000. 00	-----	170, 000. 00	-----
contingent expenses	35, 000. 00	-----	35, 000. 00	-----	35, 000. 00	-----
For salaries at Boise City, Idaho	3, 200. 00	2	3, 200. 00	2	3, 200. 00	2
wages of workmen	-----	-----	7, 500. 00	-----	7, 500. 00	-----
contingent expenses	9, 000. 00	-----	2, 500. 00	-----	2, 500. 00	-----
For salaries at Charlotte, N. C	2, 750. 00	2	2, 750. 00	2	2, 750. 00	2
wages of workmen	-----	-----	1, 080. 00	-----	1, 080. 00	-----
contingent expenses	2, 000. 00	-----	920. 00	-----	920. 00	-----
For salaries at Helena, Mont	7, 250. 00	4	7, 250. 00	4	7, 250. 00	4
wages of workmen	13, 000. 00	-----	13, 000. 00	-----	13, 000. 00	-----
contingent expenses	5, 000. 00	-----	5, 000. 00	-----	5, 000. 00	-----
For salaries at New York, N. Y	39, 250. 00	17	39, 250. 00	17	39, 250. 00	17
wages of workmen	27, 500. 00	-----	27, 500. 00	-----	27, 500. 00	-----
contingent expenses	10, 000. 00	-----	10, 000. 00	-----	10, 000. 00	-----
For salaries at St. Louis, Mo	3, 000. 00	2	3, 000. 00	2	3, 000. 00	2
wages of workmen	-----	-----	1, 000. 00	-----	1, 000. 00	-----
contingent expenses	2, 400. 00	-----	750. 00	-----	750. 00	-----
Total, mints and assay offices	978, 900. 00	96	970, 450. 00	96	970, 450. 00	96

Legislative, executive, and judicial bill, 1897—Continued.

Object.	Appropriations for 1896.		Estimates for 1897.		Recommended for 1897.	
	Amounts.	No. of salaries.	Amounts.	No. of salaries.	Amounts.	No. of salaries.
<i>Government in the Territories.</i>						
For salaries in Alaska.....	\$23, 000. 00	16	\$24, 200. 00	17	\$23, 000. 00	16
contingent expenses	2, 000. 00	.....	2, 000. 00	.....	2, 000. 00	.....
For salaries in Arizona.....	16, 900. 00	7	16, 900. 00	7	16, 900. 00	7
contingent expenses	500. 00	.....	500. 00	.....	500. 00	.....
legislative expenses.....	2, 000. 00	.....	25, 000. 00	.....	24, 250. 00	.....
For salaries in New Mexico.....	19, 900. 00	8	19, 900. 00	8	19, 900. 00	8
contingent expenses.....	500. 00	.....	500. 00	.....	500. 00	.....
legislative expenses.....	2, 000. 00	.....	26, 690. 00	.....	26, 000. 00	.....
repairs to adobe palace.....	.....	.....	3, 000. 00	.....	.....	.....
For salaries in Oklahoma.....	19, 400. 00	7	19, 400. 00	7	19, 400. 00	7
contingent expenses	1, 500. 00	.....	1, 500. 00	.....	500. 00	.....
legislative expenses.....	2, 000. 00	.....	25, 000. 00	.....	24, 250. 00	.....
For salaries in Utah.....	8, 200. 00	6	.....	.....	.....	.....
contingent expenses.....	250. 00	.....	.....	.....	.....	.....
legislative expenses.....	750. 00	.....	.....	.....	.....	.....
Commission, salaries.....	5, 000. 00	5	.....	.....	.....	.....
Commission, contingent expenses.....	3, 500. 00	.....	.....	.....	.....	.....
Total, government in the Territories	107, 400. 00	49	164, 590. 00	39	157, 200. 00	38
<i>War Department.</i>						
For salaries, Secretary's office	92, 900. 00	70	95, 140. 00	72	94, 300. 00	71
stationery	30, 000. 00	.....	30, 000. 00	.....	25, 000. 00	.....
contingent expenses	54, 000. 00	.....	54, 000. 00	.....	45, 000. 00	.....
rent	4, 600. 00	.....	4, 600. 00	.....	4, 600. 00	.....
postage to Postal-Union countries.....	500. 00	.....	500. 00	.....	500. 00	.....

} (Until December 31, 1895.)
 }
 }

For salaries, Record and Pension Office.....	616, 430. 00	514	616, 430. 00	514	616, 430. 00	514
For salaries, Adjutant-General's Office.....	159, 280. 00	130	159, 280. 00	130	159, 280. 00	130
For salaries, Inspector-General's Office.....	13, 160. 00	10	13, 160. 00	10	13, 160. 00	10
For salaries, Judge-Advocate-General's Department.....	13, 660. 00	11	13, 660. 00	12	13, 660. 00	11
For salaries, Signal Office.....	5, 700. 00	5	5, 700. 00	5	5, 700. 00	5
For salaries, Quartermaster-General's Office.....	152, 340. 00	120	152, 340. 00	120	152, 340. 00	120
For salaries, Commissary-General's Office.....	42, 760. 00	36	42, 760. 00	36	42, 760. 00	36
For salaries, Surgeon-General's Office.....	151, 266. 00	118	151, 266. 00	118	151, 266. 00	118
For salaries, Paymaster-General's Office.....	34, 560. 00	25	34, 560. 00	25	34, 560. 00	25
For salaries, Chief of Ordnance's Office.....	41, 660. 00	34	41, 660. 00	34	41, 660. 00	34
For salaries, Chief of Engineer's Office.....	23, 240. 00	17	21, 840. 00	16	21, 840. 00	16
For salaries, Rebellion Record's Office.....	15, 380. 00	13	15, 380. 00	13	15, 380. 00	13
Total, War Department.....	1, 451, 436. 00	1, 103	1, 453, 896. 00	1, 105	1, 437, 436. 00	1, 103
<i>Public buildings and grounds.</i>						
For salaries.....	4, 240. 00	3	7, 020. 00	5	4, 240. 00	3
overseers, foreman, and laborers.....	28, 000. 00	-----	30, 000. 00	-----	28, 000. 00	-----
salaries, watchmen.....	14, 820. 00	22	15, 480. 00	23	15, 480. 00	23
contingent expenses.....	500. 00	-----	500. 00	-----	500. 00	-----
Total, public buildings and grounds.....	47, 560. 00	25	53, 000. 00	28	48, 220. 00	26
<i>State, War, and Navy building.</i>						
For salaries.....	121, 380. 00	217	121, 380. 00	217	121, 380. 00	217
fuel, light, and repairs.....	37, 500. 00	-----	57, 120. 00	-----	37, 500. 00	-----
Total, State, War, and Navy building.....	158, 880. 00	217	178, 500. 00	217	158, 880. 00	217
<i>Navy Department.</i>						
For salaries, Secretary's office.....	48, 760. 00	32	48, 760. 00	32	48, 760. 00	32
contingent expenses.....	11, 000. 00	-----	11, 000. 00	-----	11, 000. 00	-----
For salaries, Bureau of Navigation.....	26, 120. 00	22	26, 120. 00	22	26, 120. 00	22
For salaries, office of naval intelligence.....	-----	-----	3, 260. 00	3	-----	-----
For salaries, office of naval records of the rebellion.....	16, 280. 00	14	16, 280. 00	14	16, 280. 00	14
publication of naval records.....	22, 000. 00	-----	50, 000. 00	-----	18, 000. 00	-----
For salaries, library of the Navy Department.....	2, 380. 00	3	2, 380. 00	3	2, 380. 00	3
professional books and periodicals.....	500. 00	-----	500. 00	-----	500. 00	-----
For salaries, Judge-Advocate-General's office.....	10, 460. 00	8	10, 460. 00	8	10, 460. 00	8

Legislative, executive, and judicial bill, 1897—Continued.

Object.	Appropriations for 1896.		Estimates for 1897.		Recommended for 1897.	
	Amounts.	No. of salaries.	Amounts.	No. of salaries.	Amounts.	No. of salaries.
<i>Navy Department—Continued.</i>						
For salaries, Hydrographic Office	\$5, 440. 00	5	\$5, 440. 00	5	\$5, 440. 00	5
draftsmen, engravers, etc.	40, 000. 00	.....	41, 800. 00	.....	40, 000. 00	.....
miscellaneous expenses	30, 000. 00	.....	30, 000. 00	.....	30, 000. 00	.....
rent, gas, repairs, etc.	1, 500. 00	.....	1, 500. 00	.....	1, 500. 00	.....
contingent expenses of branch office	17, 000. 00	.....	17, 000. 00	.....	17, 000. 00	.....
For Monthly Pilot Chart, North Pacific	10, 000. 00	5	10, 000. 00	5	10, 000. 00	5
For salaries, Bureau of Equipment	7, 780. 00	7	7, 780. 00	7	7, 780. 00	7
For salaries, Nautical Almanac Office	15, 480. 00	13	15, 480. 00	13	15, 480. 00	13
pay of computers on piecework	7, 000. 00	.....	7, 000. 00	.....	7, 000. 00	.....
For salaries, Naval Observatory	37, 160. 00	38	38, 900. 00	40	37, 160. 00	38
contingent and miscellaneous expenses	14, 700. 00	.....	15, 200. 00	.....	14, 200. 00	.....
For salaries, Bureau of Steam Engineering	11, 090. 00	9	11, 090. 00	9	11, 090. 00	9
For salaries, Bureau of Construction and Repair	13, 380. 00	10	13, 380. 00	10	13, 380. 00	10
For salaries, Bureau of Ordnance	12, 480. 00	10	12, 480. 00	10	12, 480. 00	10
For salaries, Bureau of Supplies and Accounts	36, 840. 00	30	37, 540. 00	30	36, 840. 00	30
For salaries, Bureau of Medicine and Surgery	11, 860. 00	11	11, 860. 00	11	11, 860. 00	11
For salaries, Bureau of Yards and Docks	10, 580. 00	8	10, 580. 00	8	10, 580. 00	8
Total, Navy Department.....	419, 790. 00	225	455, 790. 00	230	415, 290. 00	225
<i>Department of the Interior.</i>						
For salaries, Secretary's office	220, 070. 00	182	221, 830. 00	183	220, 070. 00	182
expenses, special land inspectors	2, 000. 00	.....	2, 000. 00	.....	2, 000. 00	.....
contingent expenses	73, 000. 00	.....	73, 000. 00	.....	73, 000. 00	.....
stationery	52, 500. 00	.....	52, 500. 00	.....	52, 500. 00	.....
scientific books	500. 00	.....	500. 00	.....	500. 00	.....
rent of buildings	40, 500. 00	.....	40, 500. 00	.....	39, 000. 00	.....
postage to Postal Union countries	3, 000. 00	.....	3, 000. 00	.....	3, 000. 00	.....
For salaries, Assistant Attorney-General's office	42, 650. 00	22	42, 650. 00	22	42, 650. 00	22

For salaries, General Land Office.....	488,850.00	372	511,350.00	383	488,850.00	372
expenses of inspectors.....	7,000.00	---	7,000.00	---	7,000.00	---
law books for library.....	400.00	---	500.00	---	400.00	---
maps of the United States.....	14,840.00	---	14,840.00	---	14,840.00	---
For salaries of mine inspectors..... } (Estimated for under sundry civil	6,000.00	3	---	---	6,000.00	3
expenses of mine inspectors..... } bill for 1897.)	5,000.00	---	---	---	5,000.00	---
For salaries, Indian Office.....	115,620.00	91	116,620.00	91	115,620.00	91
For salaries, Pension Office.....	2,086,710.00	1,686	2,093,110.00	1,690	2,086,710.00	1,686
For salaries, special examiners, Pension Office.....	195,000.00	150	195,000.00	150	195,000.00	150
expenses, special examiners.....	500,000.00	---	500,000.00	---	500,000.00	---
For salaries, Patent Office.....	694,190.00	606	759,280.00	658	694,190.00	606
scientific library.....	2,000.00	---	10,000.00	---	2,000.00	---
foreign exchanges.....	---	---	2,000.00	---	---	---
producing Gazette.....	99,655.00	---	95,900.00	---	95,900.00	---
producing copies of drawings.....	61,129.00	---	59,000.00	---	59,000.00	---
investigating public use of inventions.....	250.00	---	250.00	---	250.00	---
international bureau at Berne.....	700.00	---	800.00	---	700.00	---
expenses investigation of arts and manufactures.....	---	---	1,250.00	---	---	---
For salaries, Bureau of Education.....	51,820.00	43	52,120.00	43	51,820.00	43
books for library.....	500.00	---	1,000.00	---	500.00	---
collecting statistics.....	2,500.00	---	4,000.00	---	2,500.00	---
distribution of documents.....	2,500.00	---	4,000.00	---	2,500.00	---
For salaries, Commissioner of Railroads' office.....	11,420.00	6	11,420.00	6	11,420.00	6
examinations and inspections.....	1,000.00	---	1,000.00	---	1,000.00	---
For salaries, office of the Architect of the Capitol.....	20,644.00	18	20,644.00	18	20,644.00	18
For salaries, office of the Geological Survey.....	31,390.00	29	34,390.00	30	31,390.00	29
Total, Department of the Interior.....	4,833,338.00	3,208	4,931,454.00	3,274	4,825,954.00	3,208
<i>Surveyors-general.</i>						
For salaries.....	31,200.00	16	33,700.00	18	31,200.00	16
clerk hire.....	102,500.00	---	135,425.00	---	102,500.00	---
contingent expenses.....	20,400.00	---	28,803.00	---	20,400.00	---
Total, surveyors-general.....	154,100.00	16	197,928.00	18	154,100.00	16

Legislative, executive, and judicial bill, 1897—Continued.

Object.	Appropriations for 1896.		Estimates for 1897.		Recommended for 1897.	
	Amounts.	No. of salaries.	Amounts.	No. of salaries.	Amounts.	No. of salaries.
<i>Post-Office Department.</i>						
For salaries, Postmaster-General's Office.....	\$25, 020. 00	13	\$26, 020. 00	14	\$26, 020. 00	14
For salaries, Assistant Attorney-General's Office.....	12, 220. 00	8	12, 220. 00	8	12, 220. 00	8
For salaries, First Assistant Postmaster-General's Office.....	263, 160. 00	234	264, 480. 00	236	263, 160. 00	234
For salaries, Second Assistant Postmaster-General's Office.....	164, 000. 00	115	164, 000. 00	115	164, 180. 00	115
For salaries, Third Assistant Postmaster-General's Office.....	120, 870. 00	91	124, 670. 00	94	120, 870. 00	91
For salaries, Fourth Assistant Postmaster-General's Office.....	84, 600. 00	59	88, 400. 00	62	87, 200. 00	61
For salaries, topographer's office.....	31, 020. 00	25	31, 740. 00	26	31, 020. 00	25
For salaries, disbursing clerk's office.....	60, 760. 00	94	60, 760. 00	94	60, 760. 00	94
For contingent expenses.....	47, 750. 00	.....	48, 250. 00	.....	47, 750. 00	.....
rent of buildings.....	26, 500. 00	.....	26, 800. 00	.....	25, 500. 00	.....
Official Postal Guide.....	27, 000. 00	.....	27, 000. 00	.....	25, 000. 00	.....
post-route maps.....	18, 000. 00	.....	21, 000. 00	.....	18, 000. 00	.....
postage to Postal-Union countries.....	550. 00	.....	550. 00	.....	550. 00	.....
Total, Post-Office Department.....	881, 450. 00	639	895, 890. 00	649	882, 230. 00	642
<i>Department of Justice.</i>						
For salaries, Attorney-General's Office.....	152, 110. 00	92	168, 210. 00	97	156, 510. 00	95
contingent expenses.....	10, 900. 00	.....	15, 000. 00	.....	12, 150. 00	.....
For salaries, office Solicitor of the Treasury.....	26, 880. 00	15	26, 880. 00	15	26, 880. 00	15
contingent expenses.....	450. 00	.....	750. 00	.....	450. 00	.....
Total, Department of Justice.....	190, 340. 00	107	210, 840. 00	112	195, 990. 00	110
<i>Department of Labor.</i>						
For salaries.....	101, 220. 00	75	108, 020. 00	80	101, 220. 00	75
per diem expenses of special agents.....	54, 000. 00	.....	54, 000. 00	.....	60, 000. 00	.....
stationery.....	1, 000. 00	.....	1, 000. 00	.....	1, 500. 00	.....
books, periodicals, etc.....	1, 000. 00	.....	1, 000. 00	.....	1, 000. 00	.....
postage to Postal Union countries.....	350. 00	.....	350. 00	.....	450. 00	.....

For rent.....	5,000.00	-----	-----	-----	-----	-----	-----	-----	-----
contingent expenses.....	3,000.00	-----	-----	-----	-----	-----	-----	-----	-----
investigation of liquor problem.....	-----	-----	-----	-----	-----	-----	-----	-----	-----
Total, Department of Labor.....	165,570.00	75	192,370.00	80	172,170.00	75	-----	-----	-----
<i>Judicial.</i>									
Supreme Court:									
Salaries Chief Justice and associate justices.....	90,500.00	9	90,500.00	9	90,500.00	9	-----	-----	-----
Salary of marshal.....	3,000.00	1	3,000.00	1	3,000.00	1	-----	-----	-----
Salaries of stenographic clerks.....	14,400.00	9	14,400.00	9	14,400.00	9	-----	-----	-----
Circuit courts, salaries, circuit judges.....	60,000.00	10	132,000.00	22	132,000.00	22	-----	-----	-----
Circuit court of appeals:									
Salaries, circuit judges.....	72,000.00	12	-----	-----	-----	-----	-----	-----	-----
Salaries, clerks.....	27,000.00	9	27,000.00	9	27,000.00	9	-----	-----	-----
Court of Private Land Claims:									
Salaries of justices.....	25,000.00	5	25,000.00	5	25,000.00	5	-----	-----	-----
Salary of clerk.....	2,000.00	1	2,000.00	1	2,000.00	1	-----	-----	-----
Salary of stenographer.....	1,500.00	1	1,500.00	1	1,500.00	1	-----	-----	-----
Salary of attorney.....	3,500.00	1	3,500.00	1	3,500.00	1	-----	-----	-----
Salary of interpreter.....	1,500.00	1	1,500.00	1	1,500.00	1	-----	-----	-----
Salaries of deputy clerks, additional assistants, etc.....	-----	-----	-----	-----	-----	-----	-----	-----	-----
District courts:									
Salaries of district judges.....	320,000.00	64	320,000.00	64	320,000.00	64	-----	-----	-----
Salary of a judge, United States court in Indian Territory.....	3,500.00	1	-----	-----	-----	-----	-----	-----	-----
Indian Territory, United States courts (in deficiency act for 1896, estimated).	175,000.00	-----	210,600.00	-----	175,000.00	-----	-----	-----	-----
Court of appeals, District of Columbia:									
Salaries, chief justice and associate justices.....	18,500.00	3	18,500.00	3	18,500.00	3	-----	-----	-----
Salary of clerk.....	3,000.00	1	3,000.00	1	3,000.00	1	-----	-----	-----
Salary of assistant clerk.....	2,000.00	1	2,000.00	1	2,000.00	1	-----	-----	-----
Salary of messenger.....	720.00	1	720.00	1	720.00	1	-----	-----	-----
Clerical assistance, etc.....	500.00	-----	500.00	-----	500.00	-----	-----	-----	-----
Supreme court, District of Columbia:									
Salaries, chief justice and associate judges.....	30,000.00	6	30,000.00	6	30,000.00	6	-----	-----	-----
Clerk district court, northern district of Illinois.....	3,000.00	1	3,000.00	1	3,000.00	1	-----	-----	-----
Commissioner Yellowstone Park (in sundry civil act for 1896).....	1,000.00	1	1,000.00	1	1,000.00	1	-----	-----	-----
District attorneys of United States.....	20,900.00	73	20,700.00	72	20,700.00	72	-----	-----	-----
Marshals of the United States.....	13,700.00	66	13,500.00	65	13,500.00	65	-----	-----	-----
Total, judicial.....	892,220.00	277	923,920.00	274	888,320.00	274	-----	-----	-----

Legislative, executive, and judicial bill, 1897—Continued.

Object.	Appropriations for 1896.		Estimates for 1897.		Recommended for 1897.	
	Amounts.	No. of salaries.	Amounts.	No. of salaries.	Amounts.	No. of salaries.
<i>Court of Claims.</i>						
For salaries.....	\$35,840.00	14	\$37,040.00	14	\$35,840.00	14
contingent expenses	3,000.00	.....	4,000.00	.....	3,000.00	.....
reporting decisions	1,000.00	.....	1,000.00	.....	1,000.00	.....
Total, Court of Claims	39,840.00	14	42,040.00	14	39,840.00	14
Grand total.....	22,069,778.08	10,352	22,365,051.00	10,252	21,444,195.51	10,017

NOTE: Total increase in amount of estimates 1897 over appropriations for 1896	\$295,272.92
Net decrease in number of salaries estimated 1897 under appropriations for 1896	100
Net decrease in amount of this bill under estimates for 1897	920,855.49
Net decrease in number of salaries in this bill under estimates for 1897	235
Net decrease in amount of this bill under appropriations for 1896	625,482.57
Net decrease in number of salaries in this bill under appropriations for 1896	335

HIRAM JOHNSON AND OTHERS.

FEBRUARY 18, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GIBSON, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1584.]

The Committee on War Claims, to whom was referred the bill (H. R. 1584) for the relief of Hiram Johnson and others, submit the following report:

The history of the claim is as follows:

On the 25th day of November, 1862, a party of rebels made a raid upon a small force of Union troops stationed at Henderson, in the State of Tennessee, on the Mobile and Ohio Railroad. The raiding party captured the Union troops, with their arms and camp equipage, burned a quantity of cotton belonging to the United States and to private individuals, and also destroyed the depot buildings and water tank belonging to the railway corporation.

Thereupon, on the 2d day of December following, the commandant of the Union forces at the post of Bethel, Tenn. (Col. J. N. Haynie, Fortieth Regiment Illinois Volunteers), appointed a board of officers to investigate the losses sustained and appraise the damages suffered from the raid, with a view to an assessment, by way of reprisal, upon rebel sympathizers in and about Henderson.

The board so appointed assessed the value of the property captured and destroyed as follows:

Cotton burned belonging to the United States	\$1, 900. 00
Arms and camp equipage belonging to the United States.....	3, 180. 00
Total belonging to the United States	5, 080. 00
Cotton belonging to private persons.....	18, 171. 36
Railway property	3, 500. 00
Grand total.....	26, 751. 36

Upon this report being made, Colonel Haynie ordered an assessment of this amount to be levied upon the rebel sympathizers in and about Henderson, which action was approved at the headquarters of the district of Jackson, in the Department of Tennessee, Brigadier-General Sullivan commanding, on the 12th day of December, 1862, and an order bearing date on that day was issued from said last-named headquarters directing the collection of the tax.

Colonel Haynie proceeded in the execution of the order, and collected of the said assessment the sum of \$23,325.16, leaving a deficit of \$3,426.20 not collected, by reason of the absence of the persons against whom the same was assessed. And thereafter, but at what precise date does not appear, Col. W. W. Sanford, Forty-eighth Illinois Volunteer Infantry, commanding post at Bethel, made an additional and supplemental assessment for \$4,326.20, to make up such deficit; and of this amount there was collected \$4,026.20, making the total amount collected to repair losses and damages sustained by said raid \$27,351.36; all of which sum was paid by the persons now asking relief by this petition.

The right of the military commandant, in time of war, to order and enforce assessments upon hostile communities by way of reprisal, and to prevent the giving information and encouragement to enemies outside his lines by enemy sympathizers within his lines, is well settled and affirmed by all writers upon the laws of war, and is a

most salutary check upon predatory incursions, by making the friends of those who commit the damage bear the brunt of the injury suffered.

At the time of the appraisal of the damages and of the levying and collecting these assessments it was supposed to be under and in execution of an order of General Grant, then commanding the troops in that department. But it appears from the papers filed that General Grant disavowed the construction put upon his general orders by the local officers, and declared the purpose and intent of his general order to be that reprisal should be made by way of levy and assessment in case of raids within our lines like the one at Henderson only to repay such losses as the Government might sustain in its property thereby, and he refused to recognize the right of private claimants to reimbursement by such levy and assessment; and on the 23d day of January, 1863, ordered the proceeds of such assessment and collection to be turned over to the Provost-Marshal-General. And it appears by the papers filed that his action in denying the right of private claimants to reimbursement for losses sustained by the raid out of this fund was approved by the Secretary of War, on the report made thereon by Gen. M. C. Meigs; which report maintains the law to be that the power existed to levy and collect an assessment to pay private losses in the discretion of the general commanding; but as against such general's construction of his own order and purpose, no right whatever could accrue to a private claimant for reimbursement.

The logical sequence from these facts, and this declaration and construction by General Grant of his orders, seems to be that the subordinates, in the execution of the orders of the commanding general, should have made an assessment only for the losses sustained by the Government, viz:

For cotton burned belonging to the United States.....	\$1, 900
Arms and camp equipage belonging to the United States.....	3, 180
	5, 080

Had the Government rebuilt or repaired the injury to the railway property, as an essential for their use of it, that also should be included as a proper item for assessment; but the evidence shows that the railway company repaired their injuries at their own expense.

Deducting this amount, for which the assessment was authorized, from the total amount collected, there remains a balance of \$22,271.26 taken from the petitioners under a misconstruction of the order of the commanding general, as certified to by his own action and the evidence of an officer of his staff.

This committee have maintained, and still adhere to the doctrine, that no nation is liable for the willful torts of its soldiery.

But was this assessment a tort, within the meaning of such well-established doctrine? It is submitted that this wrong is clearly without the rule, because this assessment was collected by an officer of high rank, commanding a military district, in the execution of an office giving him colorable authority, to say the least, to do the act he did; and that act was ratified by the general commanding, impliedly, at least, by not ordering restitution where the excessive assessment came to his knowledge.

But if the reasoning on this point may be deemed questionable, there is upon the facts another and complete answer to the application of this principle. The proof shows to an absolute certainty that of the money so collected \$23,325.16 was applied by the United States to its use, knowing the source from whence it was derived, and the remainder of the sum, \$4,026, by all reasonable presumption, was likewise applied to the use of the Government. And the committee is so constrained to hold, as a contrary conclusion would compel us to impeach the integrity of a gallant officer, who fell before Vicksburg without a stain upon his citizen or soldier life.

The law of the case, then, may be stated to be, that if the officers, agents of the Government, committed a tort originally, it was approved by the principal, the Government, when it knowingly accepted the benefits of the tortious act. And no proceedings by way of confiscation or condemnation have ever been had to divest the persons so assessed of their right in the surplus fund.

Hence your committee are constrained to hold that the claims of the petitioners to the amount collected of them (\$22,271.26) in excess of the requirements of General Grant is valid, and that the Government ought in right to refund the same, and report herewith a bill redistributing the same to the persons who paid the same ratably, in proportion to the sums originally paid by each of them, respectively, and recommend its passage.

The Senate Committee on Military Affairs, at the second session of the Forty-sixth Congress, adopted this House report, but no action was had thereon in the Senate. Your committee have again examined the case, and in further explanation of the important, if not the controlling, fact referred to in the foregoing report, that the subordinate officers

acted under a misapprehension of the commanding general's orders in embracing the losses of the railway company and private persons in the assessment made upon and collected from claimants, they call attention to the following statement of Col. W. S. Hillyer, provost-martial-general of the Department of Tennessee:

NEW YORK, July 15, 1870.

General T. M. VINCENT,
Asst. Adjt. General, Washington, D. C.

MY DEAR SIR:

* * * * *

In November or December, 1862, or January, 1863, General Sullivan was commanding at Jackson, Tennessee. At that time a bridge was fired and some damage done to Government property by guerrillas. A Union woman extinguished the fire and saved the bridge. It was represented also that about the same time a large amount of private cotton was destroyed by these guerrillas. General Grant directed General Sullivan to make assessments and collect the same from rebel sympathizers in the neighborhood sufficient to make good the Government losses and pay a reward of (I think) \$500 to the woman who extinguished the fire.

General Sullivan collected a much larger sum than was required for these purposes, and reported the excess to General Grant, with a statement that parties who had had cotton destroyed by guerrillas claimed that he (General Grant) intended their losses should be made good to them out of this fund. General Grant in reply stated that it was not true that he so intended; that the Army was not an insurance company to indemnify cotton speculators for losses in their operations, and that no part of this money rightfully belonged to them nor should be paid to them; that he did not intend that any assessment should be made in excess of an amount sufficient to indemnify the Government and reward the woman, and that his orders had been misunderstood or exceeded.

* * * * *

Yours, respectfully,

WM. S. HILLYER.

Your committee, through its chairman, recently called General Grant's attention to this statement or report of Colonel Hillyer, and inquired of him whether the same was substantially correct, and also whether in ordering or directing the assessment he intended it to cover and embrace private losses. To which he replied under date of February 25, 1882, as follows:

General Hillyer's letter as printed above is no doubt entirely correct. I certainly never intended any collection for the benefit of cotton purchasers.

U. S. GRANT.

It thus clearly appears that an amount in excess of what the general in command contemplated and directed was by mistake forcibly collected of the claimants. The assessment directed was a sum "sufficient to make good the Government losses and pay a reward of \$500 to the woman who extinguished the fire" and saved the bridge. The assessment *actually* made and collected, by mistake or inadvertence, embraces *private losses*, and exceeded by the sum of \$22,271.26 what was intended or was necessary to make good the Government losses. Upon what principle of right or justice can the Government retain this *excess*? It should unquestionably be either returned to those who were forced to pay it or be applied to the reimbursement of the *private losses*, which formed in part, though erroneously, the *basis* on which the assessment was made. There can be little or no doubt as to which of these classes have the superior legal or equitable right to the fund.

While the parties (Johnson and others) from whom this collection was made are described in the order of the local commander (Colonel Haynie) as "rebel sympathizers," it is clearly shown that they were peaceable citizens, who remained quietly at home attending to their private affairs and submitting without the least resistance to the authority of the

United States, whose lines of military occupation had extended over and held exclusive control of that section of the State since May 1, 1862. This occupation was not "illusory, not imperfect, not transient or temporary, but substantial, complete, and permanent," and under the proclamation of the President and the decisions of the Supreme Court drew after it, at least, such measures of protection to persons and property within the lines as was consistent with a necessary subjection to military government and the supplying of military wants and necessities.

The claimants in no way forfeited their claim to this measure of protection or exemption. It is distinctly shown that they had no connection whatever with the rebel raid of the 25th of November, 1862, which came across the Tennessee River from middle Tennessee at night. They gave no aid, sanction, or support to this raid, and were in no way responsible for the basis it occasioned. Fielding Hurst (late colonel of the Sixth Regiment, Tennessee Cavalry, United States Army), an intensely loyal man, who raised his regiment in that locality and devoted himself to the cause of the Union with a zeal and energy unsurpassed by any soldier of the war, states that for the last forty-seven years he has lived among this people and knows them and their antecedents well and intimately.

He says further:

I know them (the claimants) to be honorable, just, and good men, who were at home in the peaceful pursuits of life when the assessment and collections were made. I know of no gentlemen whose character for goodness is better than that of the claimants. I think they are as justly entitled to that money as I am to reap the reward of my daily labor.

While your committee do not question the power of the military commander in time of war to make assessments upon the citizens of the enemy's country subject to his control and authority for the purpose of supplying his military wants and necessities, or to preserve order, punish insubordination, and redress public wrongs, it should, however, be borne in mind that by the modern laws of war such assessments are rarely, if ever, imposed upon particular individuals, except where such individuals are themselves the offenders. Where the offense attaches itself to a particular town, community, or locality, *all* the individuals of that town, community, or locality are liable to punishment, or subject to a retaliatory contribution by way of penalty, the general principle or theory upon which the rule rests being that *communities* are accountable for the acts of *their individual members*; so that if the individuals of a community who commit public or military offenses are not given up, or *can not be discovered*, it is *usual* to impose a contribution upon the *civil authorities* of the place where the offense was committed, and those authorities raise the amount of the assessment by a tax levied upon their constituents. To select out particular individuals of the community and impose upon them the entire burden which attaches to the whole community for some real or supposed offense of certain of its members who are not given up or can not be discovered, is hardly sanctioned by the general law of war. But however this may be, it is a matter of grave doubt whether this arbitrary power can be rightfully exercised in favor of private individuals to redress private injuries *not* inflicted by those upon whom the assessment is imposed, and for which they could not be held civilly responsible. The extent to which the commanding general might lawfully enforce assessments upon one portion of the enemy community to make good the losses caused by strangers to other members of the same community, when both by "intendment of law" occupy toward the Government the same relation, is a question by no means free from difficulty.

But it is unnecessary to enter into any discussion of this question, since it is positively shown that the assessment in the present case was not intended to embrace or cover private losses, and the commanding general refused to so apply it. Congress would certainly not *now* make or direct an application of this fund to the reimbursement of the private losses, in disregard of the commanding general's intention in collecting it, and of his positive refusal to allow it to be thus appropriated. For Congress to make such a disposition of the fund would in the essence of the thing be equivalent to the taking of one party's funds or means and appropriating the same to the payment of the losses sustained by others of the same community through the casualties of war with which the former had no connection and were in no way responsible. The Government does not itself make indemnity for such losses, nor should it so appropriate the funds which private individuals have by mistake or inadvertence been forced to turn over to the Government in excess of its own losses. Congress will be slow to give its sanction to an act so questionable in its justice.

What disposition, then, should the Government make of this fund in excess of its own losses assessed and collected by subordinate officers under a misapprehension of the commanding general's orders and contrary to his intentions? Will the Government take advantage of the mistake and make for itself a *gain* out of the misfortune of the claimants? In discussing the modern laws of war as to the seizure or appropriation of "enemies' property" or land, Chancellor Kent says the rule may now be regarded as *excluding* in general "the seizure of the private property of *pacific* persons for the sake of *gain*." The Supreme Court of the United States has approved this statement of the modern rule. The Government only intended to secure indemnity for *public* losses in making the assessment. It has, by mistake, received a large sum in excess of that amount, to retain which *now* from those who paid it under *duress* finds no sanction in the laws of war or the forum of public morals. It would be unjust.

In view, then, of the fact (already stated) that the *raiding* party which captured Henderson on the morning of November 25, 1862, were not *members* of that town or community; that if their offense attached to that community, so as to make it a proper case to resort to retaliatory contribution as a means of redressing the damage done, such assessment under the general laws of war should have been made upon the entire community, instead of levying the same upon particular individuals thereof; that by this discrimination the claimants were made to bear not only the burden of reimbursing all the public losses caused by the belligerent forces and the casualties of war, but in addition thereto were, by mistake of subordinate officers, required to pay in excess of the Government's losses the sum of \$22,271.26, which the present bill proposes to have refunded to them.

The records of the War and Treasury Departments show that none of the parties named in the bill have received payment on account of the assessments collected from them.

No part of this fund was ever paid to citizens for losses alleged to have been sustained by reason of the destruction of property at Henderson Station.

The payment to John Aldredge, of McNairy County, Tenn., amounting to \$7,795.08, was charged against the captured and abandoned property fund, and not to this assessment.

Your committee report back the bill and recommend its passage.

JOHN S. NEET, JR.

FEBRUARY 18, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HATCH, from the Committee on War Claims, submitted the following

REPORT:

[To accompany S. 58.]

The Committee on War Claims, to whom was referred the bill (S. 58) for the relief of John S. Neet, jr., submit the following report:

This claim was reported upon by the Committee on Military Affairs of the Senate, to whom it was referred.

The investigation of the claim by your committee leads them to the same conclusions as those reached by the Senate committee. It is therefore deemed unnecessary to recapitulate the facts set forth in that report, a copy of which is hereto attached for information.

Your committee recommend the passage of the bill.

[Senate Report No. 27, Fifty-fourth Congress, first session.]

The Committee on Military Affairs, to whom was referred the bill (S. 58) for the relief of John S. Neet, jr., have duly considered the same, and submit the following report:

A bill precisely similar to this bill was favorably reported from the Senate Committee on Military Affairs and passed by the Senate in the Fifty-first, Fifty-second, and Fifty-third Congresses. Senate Report No. 26 in the Fifty-second Congress has been reexamined, and is again adopted, and is as follows:

The Committee on Military Affairs, to whom was referred the bill (S. 5) for the relief of John S. Neet, jr., have duly considered the same, and submit the following report:

This bill directs the Secretary of the Treasury to pay to John S. Neet, jr., late a private in Company C, Third Regiment Missouri State Militia Cavalry, afterwards Company L, Sixth Missouri State Militia Cavalry, the sum of \$100, in full payment of the sum allowed him in October, 1878, by the Third Auditor of the Treasury on his horse claim, No. 16827.

A precisely similar bill (S. 2262) was presented in the Senate in the Fifty-first Congress and favorably reported by this committee and passed by the Senate, but no final or adverse action was had in the House.

Senate Report No. 238, Fifty-first Congress, first session, contains a full statement of all the facts and copies of letters from the War Department and the Treasury Department giving his military record, summary of court-martial proceedings, action of accounting officers of the Treasury, and extracts from United States Supreme Court decisions in similar cases, and to which reference is made.

Summarily stated, the claimant was tried by a general court-martial for desertion, was found guilty, and sentenced to be dishonorably discharged the service of the United States; the finding and sentence approved, and the sentence mitigated to three months' confinement at hard labor and forfeiture of three months' pay, and the sentence as mitigated was duly executed and the soldier was thereafter honorably discharged from the service.

Claimant was duly allowed, on September 4, 1869, a bounty of \$200, and was duly paid the same on November 20, 1869.

On October 10, 1874, claimant presented to the Third Auditor horse claim No. 16827, and was allowed, in October, 1878, \$100; and instead of being paid that sum the same was carried to the claimant's credit by the Second Auditor on the \$200 bounty previously paid him, on the ground that the bounty had been improperly paid him, on account of the sentence of the court-martial, and that he was still indebted to the United States in the sum of \$100, balance of bounty so paid.

The claimant suffered the penalty of the sentence of the court-martial, and after the lapse of many years the Second Auditor proposes to impose the additional sentence upon him, and does actually, to the extent of his power, in withholding from him, the sum of \$100 as allowed him by the Third Auditor for the horse.

One Kelly, lately a soldier in the United States Army, claimed an unpaid balance of bounty, which was refused him, on the ground that it had been forfeited by desertion, and the said Kelly sued the United States in the Court of Claims.

"The case, as found by the court, was that the petitioner, Kelly, had deserted and was restored to duty by order of the department commander without trial, on condition that he make good the time lost, about two months; that he complied with the condition, and was honorably discharged at the expiration of his term of service."

The Court of Claims decided he was entitled to the bounty, and the United States appealed to the Supreme Court of the United States. Chief-Justice Chase delivered the opinion in these words:

"We do not think that under the circumstances of the present case the bounty was forfeited. The able lawyer who fills at present the post of Judge-Advocate-General, in a case similar to the present, held, 'That the honorable discharge of the deserter was a formal final judgment passed by the Government upon the entire military record of the soldier, and an authoritative declaration by it that he had left the service in a status of honor; that, as such, it dispensed altogether with the supposed necessity that the soldier must obtain bounty by the removal, by order, of the charge of desertion from the rolls, and amounted of itself to the removal of any charge or impediment in the way of his receiving bounty.' With this opinion we entirely concur." (Delivered at December term, 1872.)

In this case we think the claimant is clearly entitled to be paid the sum of \$100, as allowed him by the Third Auditor; and therefore report the bill back to the Senate and recommend that it pass.

SAMUEL McKEE.

FEBRUARY 18, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COLSON, from the Committee on Claims, submitted the following

R E P O R T:

[To accompany H. R. 467.]

The Committee on Claims, to whom was referred the bill (H. R. 467) to pay to Hon. Samuel McKee the sum of \$1,718 for expenses incurred by him in a contest for his seat in the Fortieth Congress, from the Ninth Congressional district of the State of Kentucky, have had the same under consideration and submit the following report:

Your committee find that said McKee's right to a seat in the Fortieth Congress was contested by Hon. J. D. Young; that issues were joined, evidence was taken, and a hearing was had before the Elections Committee of the House, and that the seat was awarded to said McKee.

The committee further find from the proofs in the case that the said McKee in his said contest incurred, necessarily, expenses amounting to the sum of \$1,718, as appears from the itemized account of the said McKee duly verified.

It further appears that no part of said sum has ever been paid.

The committee also find that Hon. John D. Young has been paid the sum of \$2,509 for his expenses incurred in said contest.

This claim was before the Committee on Elections of the House in the Forty-eighth Congress, and was favorably acted upon by said committee, but no action was had by the House.

Your committee would therefore report back the bill and recommend that it do pass.

T. J. PITZER.

FEBRUARY 18, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PUGH, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 4842.]

The Committee on War Claims, to whom was referred the bill (H. R. 4842) for the relief of T. J. Pitzer, report as follows:

The facts out of which this bill for relief arises will be found stated in House report from the Committee on War Claims of the Forty-ninth Congress, a copy of which is hereto appended and made a part of this report.

Your committee adopt the said report as their own, and recommend that the bill referred to them do pass.

[House Report No. 1625, Forty-ninth Congress, first session.]

The claimant, Thomas J. Pitzer, of Knox County, Ky., brings this claim for \$400, the price of two good mules taken from him in 1864, at or near Barboursville, Ky. The proof is conclusive that claimant was a loyal citizen, and it is equally as well shown that the two mules were taken and used by the Army of the United States. The witnesses differ a little as to the value of the mules, one witness fixing the value at \$150 each, and the other at \$200 each. The committee fix the value at the sum of \$200 each, making \$400 for the two, and this sum they recommend be paid claimant. The committee think there is nothing in the statement of the agent of the Quartermaster-General that claimant purchased these mules from some men residing in a State in insurrection, there being absolutely nothing in the record to show any collusion or bad faith in any part of the transaction.

The committee are of opinion that the claim should be allowed, and therefore recommend that the bill do pass.

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COLUMBIA AND RED MOUNTAIN RAILWAY COMPANY.

FEBRUARY 18, 1896.—Ordered to be printed.

Mr. HYDE, from the Committee on Indian Affairs, submitted the following

R E P O R T :

[To accompany S. 259.]

The Committee on Indian Affairs, to whom was referred the bill (S. 259) entitled "A bill granting to the Columbia and Red Mountain Railway Company a right of way through the Colville Indian Reservation, in the State of Washington, and for other purposes," having had the same under consideration, report the same back to the House with the recommendation that it do pass.



WILLIAM LOCK AND J. H. TINSLEY.

FEBRUARY 18, 1896.--Committed to the Committee of the Whole House and ordered to be printed.

Mr. COLSON, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 2815.]

The Committee on Claims, to whom was referred the bill (H. R. 2815) for the relief of William Lock and J. H. Tinsley, report as follows:

The facts out of which this bill for relief arises will be found as stated in House report from the Committee on Claims of the Fiftieth Congress, first session, a copy of which is hereto appended and made a part hereof.

Your committee adopt the said report as their own and recommend that the bill do pass.

[House Report, Fiftieth Congress, first session.]

The Committee on Claims, to whom was referred the bill (H. R. 7303) for the relief of William Lock and James H. Tinsley, have had the same under consideration, and find the facts to be that at the mail letting, under advertisement of October 15, 1880, J. S. Glass and Thomas Goodin were bidders on mail route No. 12121, in the State of West Virginia; that a contract was awarded to said Glass & Goodin on said route for four years, at \$135 per annum, beginning July 1, 1881, and ending June 30, 1885; that William Lock and James H. Tinsley became their sureties in the sum of \$1,200, guarding and protecting the United States Government against loss or damages resulting from a failure of Glass & Goodin to enter into contract and perform service should contract be awarded them; that a contract was awarded Glass & Goodin, as before stated, on route No. 12121, for a term of four years, at \$135 per year; that Glass & Goodin became failing contractors, and did not perform service or hold the United States Government free from loss, as stipulated in the contract; that suit was instituted in the United States district court at Louisville, Ky., and judgment obtained against Glass & Goodin, William Lock, and James H. Tinsley, on March 4, 1886, for \$1,268.40.

Your committee find from the proof before them and the records of the Post-Office Department that Glass & Goodin are insolvent, and that if the judgment is collected Lock and Tinsley will have to pay it; that the bid of \$135 was a mistake; that it was intended to be \$1,350, and that the latter sum was the actual bid intended to be made by the parties, Glass & Goodin, and that it was so recorded upon their books, but that when the proposal for the service was filled out the naught was left off through mistake and oversight of the party filling the blanks in the proposal.

This fact is made manifest not only by the testimony in the case, but by the records of the Post-Office Department, which show that this route was a daily line of 33 miles and back, with side supply three times a week; that it was carried at a cost to the Government of \$1,146 per annum from 1877 to 1881, and at that letting the lowest bid on this route was \$1,098, and the highest, \$1,600; that the same line, from 1885 to 1889, was advertised without side supply and in two routes on July 1, 1885, and the highest bid on this service was \$2,596, and the lowest \$1,000; that the judgment against Lock and Tinsley was for the damages sustained by the Government on account of the failure of Glass & Goodin to perform the service on this route at \$135 per year for four years; that the actual damages sustained by the Government for the four years' service was \$3,265.35, a sum less than the same service had ever been performed for and less than it has since been performed for. So that in fact the Government lost nothing by reason of the mistake made in the bid of Glass & Goodin.

Wherefore, it is the opinion of your committee that it would be unjust and contrary to good conscience to enforce the collection of the judgment against Lock and Tinsley, and therefore recommend that the bill for their relief do pass.

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ADMISSION OF CERTAIN CONFEDERATE SOLDIERS TO
THE HOME FOR DISABLED VOLUNTEER SOLDIERS.

FEBRUARY 18, 1896.—Referred to the House Calendar and ordered to be printed.

Mr. TYLER, from the Committee on Military Affairs, submitted the
following

REPORT:

[To accompany H. R. 4454.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 4454) to authorize the admission into the Home for Disabled Volunteer Soldiers of veterans of the war of 1812 and of the Mexican war who subsequently entered the service of the Confederate States, having had the same under consideration, report it to the House with the recommendation that it do pass.

Under the general pension laws of the United States soldiers who are veterans of these wars are now receiving pensions, although they afterwards entered the service of the Confederacy, and the committee see no reason why these veterans should not also be admitted to the benefits of the Home for Disabled Volunteers.

SHIP CANAL FROM THE GREAT LAKES TO THE NAVIGABLE WATERS OF THE HUDSON RIVER.

FEBRUARY 18, 1896.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. CHICKERING, from the Committee on Railways and Canals, submitted the following

REPORT:

[To accompany H. R. 34.]

This committee find that the bill is identical with H. R. 4476, of the Fifty-third Congress, which was favorably reported by the Committee on Railways and Canals, which report is herewith adopted and made a part of their report.

The Committee on Railways and Canals, to which was referred the bill (H. R. 34) for ascertaining the feasibility and probable cost of constructing a ship canal from the Great Lakes to the navigable waters of the Hudson River, having had the same under consideration, report the same back with the recommendation that it do pass as amended.

The bill directs the Secretary of War to cause to be made accurate surveys, examinations, and final estimates of cost of construction of a ship canal by the most practicable route, wholly within the territory of the United States, from the Great Lakes to the navigable waters of the Hudson River, of sufficient capacity to transport the tonnage of the lakes to the sea, and appropriates the sum of \$50,000, or so much thereof as may be necessary, to defray the expense of such surveys and estimates.

In addition to the great commercial importance to be gained by the construction of this gigantic waterway, which is fully set forth in the report to the last Congress, which is made a part hereof, your committee would respectfully call the attention of this House to the necessity for immediate action upon this bill. The great interest that is being manifested at the present time throughout the whole country in regard to our coast defenses, and the importance of providing quick and ready transportation of naval vessels to the lakes in case of war involving us with Great Britain, together with the fact that our Government would be at the mercy of our foes without this means of defense on our northern frontier, should appeal to the American Congress to take immediate action upon the important matter of building a ship canal that shall traverse only United States territory, furnishing a great commercial highway in times of peace and a quick means of transportation of naval vessels in case of war.

Your committee would call attention to the statement of Senator Clemow, of the Dominion Parliament, who recently, in moving for all the papers in the matter of the proposed Ottawa Ship Canal to connect the seaboard with the Great Lakes on Georgian Bay, said:

We have had a war scare lately, and in the event of war with the United States this canal would give the necessary appliances for the transportation of the munitions of war and vessels of war for the purpose of meeting the enemy on the upper lakes.

Commenting upon this the New York Mail and Express says:

If this remark reflects Canadian sentiment, it should impel Congress to consider without delay the proposition of an American ship canal. The trouble at Washington seems to be that in the discussion of coast defenses the importance of the Great Lakes as the key to the situation in any war with England is underestimated, and Congress is lulled into a sense of comparative security by the assurance that the steel ships of commerce on the lakes could be readily transformed into vessels of defense for the Northern coast. This is a serious error, and the Government can not too soon awaken to a realization of the truth. Canada is determined to have an anchor to the windward, and the United States can not afford to be less vigilant, in view of the fact that the benefit to the great commerce of the Northwest would eventually pay the cost of the canal, making it a splendid investment, even should we never come to blows with Great Britain, a thing most devoutly to be wished.

Under our treaty with Great Britain of April 28, 1817, our armament upon the Great Lakes must be very small, and is as follows:

The naval force to be maintained upon the American lakes by His Majesty and the Government of the United States shall henceforth be confined to the following vessels on each side; that is,

On Lake Ontario, to one vessel not exceeding one hundred tons burthen, and armed with one eighteen-pound cannon.

On the upper lakes, to two vessels, not exceeding like burthen each, and armed with like force.

On the waters of Lake Champlain, to one vessel not exceeding like burthen, and armed with like force.

All other armed vessels on these lakes shall be forthwith dismantled, and no other vessels of war shall be there built or armed.

If either party should hereafter be desirous of annulling this stipulation, and should give notice to that effect to the other party, it shall cease to be binding after the expiration of six months from the date of such notice.

The naval force so to be limited shall be restricted to such services as will, in no respect, interfere with the proper duties of the armed vessels of the other party.

To amend this treaty would not be to our advantage, as both Governments might then become involved in ship building for war purposes which might never be needed, and for which we sincerely hope that no use would ever arise. But in case of war, if the proposed canal should be built by us, our Navy could enter the lakes and protect our cities from hostile vessels. The canal would be of the greatest use in times of peace and would render our position on these lakes impregnable in case of war.

One hundred and fifty miles northwest of Duluth and Superior are the fountains of three of the great drainage systems of the American continent. From there the flowing waters are sent northward to the ocean through Hudson Bay; southward to the ocean through the Mississippi Valley and the Gulf, and eastward to the ocean through the Great Lakes and the St. Lawrence.

For commercial purposes the northern drainage system is impracticable and useless; but flowing water is now, and forever will be, the potential agency of commerce southward and eastward between the interior and the Atlantic Coast.

The Great Lakes contain more than one-half the area of the fresh water of the globe. They make up the world's largest system of deep-water inland navigation.

Embracing nearly 100,000 square miles of connected waters, with a general direction east and west, between the forty-first and forty-seventh parallels, they penetrate from tide water on the St. Lawrence and (including the Erie Canal) from tide water at New York 1,400 miles into the heart of the continent. The head of Lake Superior and the St. Lawrence tide water are on the northernmost parallel, Chicago and New York on the southern. The western extremity of the system is 1,700 miles only from the waters on the Pacific. The range of this water system, it will be observed, is entirely within the limits of the north temperate zone, on the line on which population most freely moves

westward, and where final settlement is most compact and where the climatic conditions insure the largest returns to capital and labor. For one-half the distance between the two oceans these waters divide the Dominion from the Great Republic. Eight States, with a population of 26,000,000 people, border on these lakes, and more than 6,000,000 people in the West and Northwest besides largely depend upon them.

Kansas, Nebraska, Colorado, Iowa, Wisconsin, Minnesota, the Dakotas, Wyoming, Montana, and the northwest Canadian provinces, by means of their railway connections, are largely tributary to these waters.

The traffic of these Great Lakes is simply amazing. Through the Sault Canal, at the outlet of Lake Superior, there passed in 1890 10,557 vessels, having a net registered tonnage of 8,454,435 tons. The actual freight tonnage was 9,041,213 tons, but the registered tonnage is used for the purpose of comparison. Through the Suez Canal there passed during the same year 3,389 vessels, having a net registered tonnage of 6,890,014 tons, so that nearly three times as many vessels and over 1,500,000 tons more of freight passed through the Sault Canal, away in the center of the continent, than passed through the Suez Canal, which is an international work and a highway for the commerce of the world. And it should be remembered, too, that the Sault Canal was open but two hundred and twenty-eight days for navigation and the Suez Canal was open, of course, during the entire year. And this represents the business of Lake Superior alone.

The entries and clearances in New York in 1889 represented 11,051,236 tons, and the entries and clearances in all the seaports in the United States represented 26,983,315 tons. The entries and clearances from London and Liverpool during that year were 33,430,617 tons. The entries and clearances on the Great Lakes in the same year were, according to the United States census, 27,700,000 tons; and in 1890 the total freight traffic of the Great Lakes was 33,303,324 tons, exceeding by 6,000,000 the combined entries and clearances of all the seaports of the United States, Atlantic, Gulf, and Pacific, and equaling the combined entries and clearances, both coastwise and foreign, of London and Liverpool, the great commercial centers of the world.

These shipments embraced 9,000,000 tons of iron ore, 5,000,000 tons of grain and flour, 8,000,000 tons of lumber and forest products, 7,000,000 tons of coal, and 4,500,000 tons of miscellaneous freight. This was carried by a floating equipment of 2,784 vessels, having a carrying capacity of 1,254,275 tons, and a commercial value of \$48,809,750.

Of the total tonnage of shipping built in the United States during the year ending June 30, 1889, 5 per cent was built on the Western rivers, 8 per cent was built on the Pacific coast, 41 per cent on the Atlantic coast, and 46 per cent was built on the Great Lakes.

The ton mileage of the Lake marine for the season of 1889 was 15,518,360,000; and in 1890 it amounted to 18,849,681,384. The ton mileage of all the railways in the United States for 1889 was 68,727,223,146. It is thus seen that the ton mileage of the Lake marine is more than one-fourth that of all the railways in the United States. The average rate of charges for freight received by all the railways of the United States for the year 1890 was 9 mills per ton mile and at that rate the transportation by rail of the Lake cargoes would have cost \$169,647,132.

The average rate on all freights carried upon the Great Lakes is not over 1.2 mills per ton mile, making the total cost of water transportation \$22,619,617.66 equal to an economy over the cost of transporting the same freight by rail of \$147,027,514.

Mr. S. A. Thompson, secretary of the Duluth Chamber of Commerce,

who has given profound study to the subject, and to whom indebtedness is acknowledged for many facts and expressions of thought, says:

Careful experiments, conducted for a long period on the Grand Trunk Railway, showed the actual cost of moving freight, exclusive of fixed charges, to be 0.5 cent per ton per mile. The average cost on all the roads reporting to the Interstate Commerce Commission for the fiscal year ending June 30, 1890, was nearly 20 per cent greater, being .593 cent per ton per mile, while the lowest cost I have been able to find on record is in the case of the Lake Shore and Michigan Southern, which has been able in exceptionally favorable years to report a cost as low as 0.4 cent per ton per mile. On the Erie Canal the cost is only half as much as the least cost reported for rail transportation, being 2 mills per ton per mile. On some of the Belgian canals, where steam towage is used, the cost has been reduced to 1½ mills, while on the Aire and Calder Canal, in England, General Manager Bartholomew, who seems to be the greatest genius in canal management which the world has yet produced, reports that he has been able to reduce the cost of transporting minerals to 0.024 cent per ton per mile, and for general merchandise to 0.068 cent, the average being 0.064, and the cost of returning the empties being included in each case.

The figures grow more and more interesting as we go on, and when we turn to the Great Lakes, where we have deeper water, we find results which are almost startling. * * * The lake boats carry 2,700 tons of freight on the present depth of water at the Sault, make the run from Duluth to Buffalo in three days and a half, and cost on an average of \$120 per day. Calling the distance from Duluth to Buffalo 1,000 miles, and we find these figures are equivalent to 0.015 cent per ton per mile, only one twenty-sixth the cost on the Lake Shore road. Or, to express the same fact in terms which will be better understood by the ordinary business man, it costs \$26 on the most favorably situated railroad in the United States to do what is done on the Great Lakes for \$1. These figures, and hundreds more like them which could be given if necessary, prove conclusively to my mind that it is utterly impossible for the railway to compete on even terms with the water way for the carriage of bulk freights, and, second, that the greater the depth of the water way and the greater the carrying capacity of the canal boat or vessel the less is the cost of transportation.

Within the past two years a revolution in methods of transportation of grain by water has been effected by means of the "whaleback" vessels, arising from lessened cost of construction, reduced expense of maintaining and operating, largely decreased consumption of coal, and having capacity for carrying much larger cargoes of grain.

One of the "whaleback" steamers, with two barges in tow, went through from Duluth to Kingston this last season, unloading at that point onto barges that carried the grain as usual through the St. Lawrence canals to Montreal, and the total rate from Duluth to Montreal was 5½ cents per bushel. The "whaleback" steamer went, without cargo, through the St. Lawrence rapids in all places where the canals are incomplected; and where these are completed of the dimensions at present projected by the Dominion Government, she passed through them to Montreal, took her cargo on once more, and carried from Montreal to Liverpool about 90,000 bushels of wheat.

An obvious advantage of such a vessel is that when loaded with such a cargo she drew less water than an ordinary vessel capable of carrying such a cargo would draw without any load.

With a canal from the Lakes to the Hudson, of sufficient capacity so that these vessels could pass through without breaking bulk, the cost of carrying wheat from the head of Lake Superior to the city of New York will be less than 5 cents per bushel.

This economy in transportation affords an increase in the price of the products of the soil to the farmers of the great Northwest. It brings to the people in the densely populated manufacturing districts of the East cheaper breadstuffs. It gives living wages to the miners of Lake Superior and reduces the cost of manufactured iron. It fosters the great shipbuilding industry in the cities bordering on the Great Lakes, an industry which, within the past ten years, has changed a modest

fleet of small wooden schooners to a magnificent squadron of steel steamships, fit to circumnavigate the globe, designed by American architects, built by American capital and American workmen, manned by American sailors, owned and operated by American citizens, and carrying the products of American soil and American industry.

On the day that it becomes possible to send ships direct from the Great Lakes to the ocean by way of the St. Lawrence River, while they are unable to go from the Great Lakes to the ocean by the way of the Hudson River, the sceptre of commercial supremacy in the Western Continent will begin to pass from New York to Montreal, and the merchant marine of the United States, which has had a new birth on the Great Lakes, will receive its death blow from Canadian competition.

It is not a question whether the products of the West and Northwest shall go by way of the Erie Canal or by rail from Buffalo to New York or not go at all, but whether the transportation of these products shall be retained in American hands on American soil and reach an American seaport or whether it shall be surrendered to Canada.

Who shall control the resistless tide of this expanding commerce which demands an outlet to the sea?

When the Great Lakes have a connection with the ocean through Canadian soil the cities on the lakes will become seaports for Canadian vessels, while American vessels have no means of reaching them. This means that every bushel of grain and every barrel of pork for export from the great West will be taken by Canadian vessels from Chicago, Milwaukee, or Duluth either direct to Liverpool or for transshipment at Montreal. It would necessarily take this route because the Erie Canal could afford no competition against 14 feet depth of water of the Welland and St. Lawrence canals. Breadstuffs and provisions constitute so large a percentage of our entire exports that the vessels carrying these must necessarily be the ones to return our imports in.

The supremacy of England rests not so much in the fighting strength of her navy or her enormous accumulation of capital as on the fact that her capital has been directed to securing the carrying trade of the world and that her naval strength has been used to protect her commerce. What England has done for the world at large Canada is endeavoring to do for this continent. In proportion to her population and resources, the expenditures of the Dominion in developing both rail and water ways have been enormously greater than those of the United States. With less than one-twelfth of our population, in a less favorable climate, and with natural resources far inferior to ours, she has fearlessly grasped her great and difficult transportation problem. On her water ways she has expended, largely on this lake system and the St. Lawrence, \$54,596,180. She has built and equipped 1,217 miles of railway at a cost of \$54,557,579. With 12,628 miles of railway in operation, the government has given to railways in—

Bonuses	\$135, 894, 304
Loans	21, 201, 314
Provincial government.....	24, 036, 307
Municipalities	13, 461, 224
	194, 593, 149
In all for railways.....	246, 150, 728
In all, railways and canals.....	300, 746, 917

In England \$60,000,000 are now being expended to connect one city with the sea, Manchester and Liverpool.

Germany, in 1887, ordered the construction of more than 1,000 miles

of new canal navigation in addition to the 1,289 miles then operated and the 4,925 miles of then available navigable rivers.

France has expended since 1814 upon the improvement of her harbors and water ways more than \$650,000,000, in addition to \$700,000,000 out of the state treasury for railways. She has 7,500 miles of canal and river navigation and the completest transportation facilities of any nation in the world. She commenced building canals a hundred years before the Christian era, when Marius caused his soldiers to excavate from the Rhone to the sea a canal that long bore his name and to which the city of Arles chiefly owed its splendor.

The total appropriations of the United States Government for rivers and harbors have been \$204,137,649. They began in Jefferson's administration, 1800, with \$25,000, in the State of Louisiana. The sum of \$14,699,745 was expended previous to 1860. Between 1860 and 1870 the amount was \$12,789,182; between 1870 and 1880, \$68,035,656; between 1880 and 1890, inclusive, \$108,613,066, or only \$204,000,000 in a century for great objects of national development. Of this total amount \$28,417,182 only have been expended within the great States bordering on this lake system and for its improvement.

In relation to this portion, at least, of the total appropriations for rivers and harbors since our national life began it may safely be asserted that the expenditure for public purposes of no equivalent sum elsewhere on American soil has ever resulted in so large and so equitably distributed advantages to the American people.

The development of the water ways should be made, not only because the water way furnishes the cheapest possible form of transportation, but because it is also the most powerful possible regulator of railway rates. On roads subject to water competition freight rates invariably go up when navigation closes in the fall, and go down again when navigation reopens in the spring.

The last annual report of the collector of customs of the port of Buffalo shows that at the close of canal navigation in the fall of 1891 there were 10,000,000 bushels of grain at that port awaiting shipment east to be forwarded by rail.

The average freight rate on grain from Buffalo to New York by canal during the season of navigation was $4\frac{3}{4}$ cents a bushel, and just before the close it was but $3\frac{1}{2}$ cents. During navigation the rate by rail was kept down to that by canal, but within a day after the last canal boat had cleared the rail rate was advanced to $7\frac{1}{2}$ cents a bushel, an increase of 4 cents. That meant that the Eastern consumers must pay \$400,000 more than would have been charged them had the grain gone all the way to New York by water.

A very carefully prepared table shows that the average freight rate on grain by lake from Chicago and Duluth to Buffalo during the past season was about 4 cents a bushel, $3\frac{1}{2}$ cents less than the railroads wanted for carrying grain one-third of the distance, or from Buffalo to New York.

It should be noted also that the influence of water competition is not confined to the roads which lie close along the water way. Mr. Albert Fink, the railroad commissioner, used the following words in 1878, in a letter addressed to Hon. William Windom, who was at that time chairman of the Senate committee on transportation routes to the seaboard:

You are aware that when the rates are reduced between Chicago and New York on account of the opening of the canal, this reduction applies not only to Chicago, but to all interior cities (St. Louis, Indianapolis, Cincinnati), to New York. If that was not the rule the result would be that the roads running, say, from St. Louis,

Indianapolis, and Cincinnati, to Chicago, would carry the freight to Chicago, from which point low rates would take it to the East and leave the direct road from the interior points to the seaboard without business. Hence, whenever the rates are reduced on account of the opening of navigation from Chicago and lake ports, the same reduction is made to all interior cities, not only to New York, where the canal runs, but to Philadelphia and Baltimore. Although the latter cities have no direct water-route communication with the West, yet they receive the benefit, as far as railroad rates are concerned, the same as if a canal were running from the lakes direct to the cities, because whenever rates from Chicago to New York are reduced it is necessary to reduce the rates from Chicago to Boston, Philadelphia, and Baltimore; otherwise the business would all go to New York.

The reduction of the rates from Chicago and St. Louis to Baltimore causes a reduction in rates on shipments via Baltimore to Atlantic ports—Norfolk, Wilmington, Savannah, Brunswick, and Fernandina, and from there into the interior of the Gulf States—Augusta, Atlanta, Macon, Montgomery, Selma, etc. * * * These roads * * * are obliged to follow the reductions made via the Baltimore road, and which were principally made on account of the existence of the Erie Canal and the opening of navigation. The same way in regard to the west-bound business, * * * so that it may be said that the rail rates are kept in check by water transportation.

Nor is water competition confined in its effect entirely to the season of navigation. The same authority last quoted testified before the Senate Committee on Interstate Commerce that, at least so far as grain rates are concerned, that influence extends throughout the winter. "For," said he, "if the rail rates are made too high, the grain is simply stored to await the drop in rates which is certain to come when navigation is opened."

It is wonderful to see in how many different directions and to what a distance the influence of the water way extends. We have seen that it not only gives the cheapest form of transportation, but that it exerts a powerful influence on the railways which parallel the water route, whether close by or hundreds of miles away, and that this influence is felt even during the time when the water way is frozen up. And even this is not all. The beneficial effect of the water way extends also to the interior of the country, which is reached only by railway lines which terminate upon the water way and make a through line for the transportation of freight in connection therewith. At the same time all the experience of the past proves that the development of the water ways is not an injury but a benefit to the railway business.

The New York Central and Lake Shore and Michigan Southern Railways, considered as one, lie close alongside a water way almost every mile of the distance from New York to Chicago, and there is no other railway in the United States which has been compelled to build four tracks to accommodate its business as the New York Central has. In Germany, the year following the great improvement in the river Rhine, the traffic of the river increased 30 per cent, while the traffic of the railway along its banks increased 60 per cent. As a matter of fact, the two systems of transportation, rail and water, are not antagonistic, but complementary each to the other.

A great misconception has existed in the minds of many as to the agricultural possibilities of the Canadian northwest. The fact is that the very finest wheat is grown in the Peace River Valley, 1,500 miles northwest of Duluth, and there are millions of acres of land on which the finest small grains in the world can be grown in the Canadian northwest, and the time is not far distant when the wheat growers of Kansas and Nebraska and the Dakotas must meet Canadian competition in supplying with wheat the markets of the world.

If, when the time comes, the Canadian farmers can send their wheat 500 miles by rail to Lake Superior, breaking bulk but once between the farm wagon and the Liverpool docks, while the farmer of Kansas and

Nebraska must send his wheat 1,200 or 1,500 miles to reach the ocean vessels, there can be no question as to who will win in such an unequal competition. It is not only the proper policy, but it is one of the highest duties of our Government to see to it that the farmers of the United States shall have as cheap transportation for their products to the seaboard and to the markets of the world as is enjoyed by the people of Germany or France or Canada or any other nation under the sun.

The Welland Canal and a portion of the St. Lawrence Canals have already been deepened to 14 feet, and work is in progress to bring the remaining canals of the St. Lawrence system to the same depth. The canal through the St. Clair Flats, and the magnificent locks of the American Canal at the Sault are as free to Canadian vessels as to our own, but in spite of this fact the Dominion is building a new canal at the Sault on the Canadian side of the river. Within five years from the present time, at the present rate of progress, and within three years if the work is hastened a little, there will be a clear channel for vessels drawing 14 feet of water through Canadian territory all the way from Lake Superior to the sea.

Six feet of water in the Erie Canal and two transfers of the freight can no more compete with 14 feet of water through the Canadian canals and no transfer than a wheelbarrow can compete with an express train.

The canal boat carrying 200 tons, drawn by mules at the rate of 4 miles per hour, can by no possibility compete with the steamship carrying 2,000 tons, propelled by steam at rate of 14 miles per hour. And while the American farmer has held his own fairly well against the semi-civilized wheat growers of India, how can he hope to win in competition with men of the same race, men just as intelligent, with a climate no more rigorous, with a soil at least as fertile, and with transportation facilities immeasurably superior? The great plains of the Canadian northwest are unsettled now, but when once the conditions of soil and climate which there exist are supplemented by facilities for transportation not surpassed, if equaled, by those of any other region, the Canadian northwest will settle up with a race of hardy, intelligent, and prosperous people, and will become the granary of the world. He who can most cheaply reach the markets of the world can control the markets of the world.

It is not alone the commercial advantages of a water way upon domestic territory from the Great Lakes to a domestic seaport that are involved. It is a national question of the utmost importance and in the broadest sense. In a report of the Military Committee of the House, published in 1862, it is stated that—

The United States and Great Britain are equally prohibited by treaty stipulations from building or keeping afloat a fleet of war vessels upon the lakes. At the same time, on the shores of these lakes the United States have many wealthy cities and towns, and upon their waters an immense commerce; these are unprotected by any defenses worthy of special notice, but are as open to an incursion as was Mexico when invaded by Cortez. A small fleet of light-draft, heavily armored gunboats could in one month, despite of any opposition that could be made by extemporized batteries, pass up the St. Lawrence and shell every town and city from Ogdensburg to Chicago. At one blow it could sweep our commerce from that entire chain of waters. To be able to strike a blow so effective Great Britain constructed a canal around the Falls of Niagara. By this single stroke the entire chain of lakes was opened to all British light-draft ocean vessels.

Perceiving our ability to erect works upon the St. Lawrence that might command its channel, and thus neutralize all they have done, Great Britain dug a canal from the foot of Lake Ontario on a line parallel to the river, but beyond reach of American guns, to a point on the St. Lawrence below, beyond American jurisdiction, thus securing a channel to and from the lakes out of our reach. Occupied by our vast

commercial enterprises and by violent party conflicts, our people failed to notice at the time that the safety of our entire northern frontier has been destroyed by the digging of two short canals. Near the head of the St. Lawrence, the British, to complete their supremacy on the lakes, have built a large naval depot for the construction and repair of vessels, and a very strong fort to protect the depot and the outlets of the lake, a fort which cannot be reduced—it is supposed by them—except by regular approaches. The result of all of this is that in the absence of ships of war on the lakes, and of means to convey them there from the ocean, the United States, upon the breaking out of war, would, without navy-yards and suitable docks, have to commence the building of a fleet upon Lake Ontario and another upon the Upper Lakes. At the same time, England, possessing a naval depot at the entrance to this system of waters, can forestall us in all our attempts, both offensive and defensive.

Thirty years have gone by since these words were written, and while the size and importance of these cities and the commerce of these waters have amazingly increased, this mighty commerce and these majestic cities are even more defenseless than they were then. More than a hundred vessels in the British navy are capable of passing through the Canadian canals from the sea to the lakes.

Canada is even now building cruisers which are a menace to our lake commerce.

A dispatch from Ottawa, dated March 6, 1892, published in the New York Recorder, of March 7, says:

The Dominion Government is about to place three new cruisers on the Upper Lakes. One will be located on Lake Superior and one at least on Lake Huron.

The Washington correspondent of the same paper says:

The Treasury Department some time ago made an official inquiry as to the character of the three new revenue-cutters now being built by Great Britain on the Canadian side of the Great Lakes. In an official report to the Treasury Department an officer of the Revenue-Marine Service states that the *Constance* is the type of a number of vessels about to be built.

Her dimensions are: Length, 125 feet; beam, 19 feet 3 inches; draft, 9 feet; engines of the single-screw, vertical, compound type, cylinders measuring, respectively, 18 and 36 inches; stroke, 24 inches; battery, three Nordenfeldt rapid-fire guns.

SHE HAS A RAM.

The *Constance* has a ram bow, and special attention has been paid to the arrangement of her bunkers in order to protect the machinery from shock. Two vessels of the *Constance* type are now afloat. This type of vessel is more formidable than any of the revenue-cutters of the United States, and the fact that England is building these semiwarships for the lake service has not escaped official attention.

The same paper, in its issue of March 8, 1892, in its Washington correspondence, under date of March 7, says:

THOSE WAR SHIPS.

The character of the revenue-cutters, as ascertained by the official investigation conducted by the Treasury Department, is believed by those who have looked into the question closely to be a violation of treaty rights to which the United States ought not to submit without some kind of a protest. Each one of the projected revenue-cutters would be available in case of hostilities for the purposes of actual warfare, and would far outclass any vessels which would be at the disposal of the United States on the Great Lakes.

Their presence in the lakes will be a constant menace, and as they are not needed for the legitimate objects of the revenue service, it is the opinion of Representatives and Senators who have been approached upon the subject to-day that Great Britain should be asked respectfully but firmly to explain their presence on the lakes, and if that explanation is not satisfactory, to abandon the idea of launching them.

Any action of the Canadian Government looking to a strengthening of its forces in that quarter of the world just at the present time, when the Bering Sea question has reached so critical a stage, can not, in the judgment of public men in Washington, be regarded with equanimity.

With the resources thus available to the British Government, she might put into the lakes vessels enough to besiege at one time every city from Ogdensburg to Chicago and Duluth, and sweep the commerce of the United States from their waters, unless prevented by a destruction of the Canadian canals by the United States in anticipation of any act or declaration of war.

In building and enlarging the Erie Canal, New York alone has expended \$50,000,000 and given a free water communication from the lakes through the Hudson to the sea.

This has been one of the most potential influences of American progress and civilization. It developed the Northwest by giving an outlet to the commerce of the Great Lakes. It made New York the Empire State and her metropolis the imperial mart of the New World. It made possible the great cities of Chicago, Milwaukee, Cleveland, Toledo, and Buffalo.

When that famous undertaking was commenced there was but one steamer upon Lake Erie. Huron and Michigan were known only to the Indian and the fur traders. Buffalo, a city of over 250,000 souls, was then a village, and Chicago and Milwaukee were yet "in the womb of time."

The whole commerce above Niagara upon nearly 100,000 square miles of water, with 4,000 miles of coast, employed but forty sail, two only of which exceeded 100 tons. Yet in the policy then inaugurated by New York's famous governor, De Witt Clinton, the barriers interposed by nature between the commercial intercourse of central North America and the world were broken down and now the glistening waters are bedecked with hundreds of floating palaces propelled by steam and thousands of sailing vessels with a tonnage exceeding the foreign and coastwise commerce of the whole nation.

Contemporaneous with the enlargement of the Erie Canal began that wonderful development of the railway system of transportation, which has so increased that the canal, which has remained practically unchanged for thirty years, is gradually losing its capacity for usefulness and its influence upon the problem of transportation; but its creation and existence has demonstrated the possibility of a union of the lakes with the Hudson, and illustrated the value and importance of a far more radical and extensive improvement to meet the present and prospective wants of the mighty tide of lake traffic which demands an adequate outlet to the sea.

Whether this can be done at all, or whether it can best be done by enlarging the Erie Canal, or by a ship canal around Niagara Falls connecting lakes Erie and Ontario, and then by the Oswego and Mohawk river routes to the Hudson, or whether any plan whatever is feasible, and if so what would be the probable cost of such a work, are the important questions to be first determined.

Congress after Congress has been importuned to make appropriations for some part of the work which forms a feature of the whole enterprise; to deepen the channels between the lakes; to build the Niagara ship canal; to deepen the waters of the upper Hudson, and to enlarge the Erie Canal. Men of the highest standing as engineers, of the widest experience as shippers, men of the broadest intelligence, have expressed their views, but yet so far as cost and practicability are concerned they remained opinions merely.

To determine the feasibility of constructing a deep water way from the lakes to the Hudson, its probable cost and the sufficiency of an available water supply, can only be settled by a detailed and carefully

planned survey. And such a survey should embrace every available route which is wholly within the territory of the United States, in order to definitely settle which is the best and most economical.

The importance of this measure has been repeatedly brought to the attention of Congress by proposed measures looking to the building of a ship canal around Niagara Falls, connecting lakes Erie and Ontario, and the other project of direct connection of Erie with the Hudson by way of an enlargement of the Erie Canal, avoiding the Ontario, while still another project, embracing the idea of the Niagara ship canal and the enlargement of the Oswego Canal, and from its junction with the Erie and enlargement of the latter to the Hudson. Still another, and apparently the most feasible plan, is that of including the Niagara ship canal and a new canal from Oswego, which shall embrace Oswego River, Oneida Lake, and the Mohawk River to the Hudson.

The attention of the country has been called to various phases of the question from time to time; first as early as 1784, one year after this nation had achieved recognition from Great Britain. In 1808 a resolution of the Senate called upon the Secretary of the Treasury, Albert Gallatin, to report proposals for internal improvements worthy the action of Congress. In his report he recommended the construction of a ship canal around Niagara, and says of it:

No other single operation within the power of the Government can more effectually tend to strengthen and perpetuate that union which secures external independence, domestic peace, and internal liberty.

This was at a time when the immense population and resources of the West were unknown and scarcely dreamed of, when western New York was almost a wilderness, and there was no city and no commerce upon the Great Lakes needing defense in case of foreign war.

The execution of this plan was suspended by the interruption of friendly relations with Great Britain. But immediately with the restoration of peace President Madison, in his annual message, dated December 3, 1816, said:

I particularly solicit the attention of Congress to the expediency of exercising their existing powers, and, when necessary, of resorting to the prescribed modes of enlarging them, in order to effectuate the comprehensive scheme of roads and canals (including Niagara) such as have the effect of drawing more closely together every part in the common stock of national prosperity.

This portion of the message was referred to a special committee, who made what has been called an "enlightened and patriotic" report, in which the great valley of lakes is particularly spoken of as "the grand theater upon which the General Government was destined, at no remote period, to act a distinguished part in effectuating one of the greatest schemes of internal navigation the world ever beheld."

In 1835 a Government survey, contemplating a canal of 10 feet in depth around Niagara, was made by Capt. W. G. Williams, United States topographical engineer, pursuant to an order of the Executive, and his report placed the feasibility of the work as then contemplated beyond the reach of controversy.

In 1837, in the second session of the Twenty-fourth Congress, the Committee on Roads and Canals had this subject under their consideration and made an elaborate and exhaustive report, exhibiting the utility and feasibility of this important national work, its great commercial and military advantages, and reviewing in a conclusive manner the constitutional questions involved.

In the Twenty-fifth Congress, in 1838, a report from the Committee on Roads and Canals was again submitted to the House, in which they

concur in the frequent recommendations of this project. On the 11th of May, 1858, a favorable report was again made to the Thirty-fifth Congress for the construction of a Niagara ship canal, and granting lands in aid of the project.

A select committee of the Thirty-seventh Congress, which had this subject under consideration, made a report March 3, 1863, at a time when the energies and resources of the country were tested in the fires of a civil war, from which is extracted the following:

In the past, on various occasions, this great enterprise has received great consideration from the Executive, and favorable attention of Congressional committees. It has been pressed upon the attention of the Government by boards of trade, leading commercial men, and State legislatures, and exhibited in all its importance. The bill which will accompany this report will specify as to the dimensions of the proposed work, and ask the amount of money necessary for its construction. We are aware that the energies of the Government are now taxed to the utmost extent to carry on the war, but the tax upon us seems to strengthen and elevate our credit rather than otherwise. Besides, this war will not last always, but we hope will soon be closed. The history of the world can not show an instance like our case. We carry on the greatest struggle the world ever saw within our own resources, and at the same time our credit is fair. Our resources are immense; our patriotism is un-failing, and the confidence of our people in the justness of our cause is beyond a doubt. When this war closes, and the authority of the Government is restored, its honor vindicated, and its authority respected, with our vast resources heretofore unknown, but now discovered, our national prosperity will be unlimited, so to speak, and our people will enjoy a higher life, and rejoice in more complete success than ever before.

As our energies are tried, and we learn our strength and power, we are prepared to make efforts commensurate with that knowledge. These great works of national, military, and commercial importance should not be delayed by any considerations whatever. The efforts put forth in their construction will themselves strengthen and unite our people and make our Union more worthy of our love and protection.

Every road and every canal the Government aids binds our Union together and unites our people, and tends to enrich by developing our resources and bringing out the wealth that lies hidden in the industry and enterprise of our people. The amount asked of the Government is very small, comparatively, and what a work can be accomplished by the expenditure. It is a work of national pride, of military necessity. We owe it to our loyal people of the West and North, largely interested in commercial business upon our great chain of lakes, that every facility for protection be furnished to enable them to carry on successfully and safely their business.

We owe it to ourselves as a nation not to be compelled to make use of foreign enterprise, foreign skill, and foreign public works when we have all the enterprise, skill, and resources within ourselves to provide better facilities than thus employed, while by so doing we would be developing our own resources and benefiting the labor and industry of our own people. The course pursued by our Canadian neighbors during the unfortunate civil war in which we are now engaged, if no other reason existed, should be enough to influence us to action in this direction. Never have a people so utterly failed to be governed by good considerations as they have.

Our legislation, conduct, and actions toward them as a people have all been calculated to bring them under the greatest obligations to us and cause them to treat us as friends and not as enemies. When will America forget the insults and outrages they tried to heap upon us and their efforts to bring us and our cause into contempt? Never, so long as we have any regard for our honor as a people.

Our brave and loyal citizens engaged in service upon our lakes ought not any longer than it will take to construct our own ship canal be compelled to travel theirs in the prosecution of their legitimate business, and Congress and the Government ought to give their early and earnest attention to the construction of the work that is herewith proposed. We demand favorable action, and the committee can but believe that the bill which now proposes to secure the completion of this valuable work will meet with a hearty approval from Congress.

We close this report by using, as expressive of our views, the closing words of the report of Capt. Williams on this subject, as follows:

"If I have shown more interest in the question than is usually looked for at the hands of an engineer, it is that I have felt the strongest conviction of the grandeur, even sublimity, of the enterprise, combined with its general usefulness to the country and the facility of its execution."

The Committee on Naval Affairs of the same Congress, also the same day, reported the same matter favorably.

In 1864 the President of the United States transmitted to Congress the report of Charles B. Stewart, consulting engineer, strongly urging the building of this canal.

It will be found in Executive Document No. 61, Thirty-eighth Congress.

In the Thirty-eighth Congress a bill was introduced authorizing the loan of the bonds of the United States in the sum of \$6,000,000 to enable a private corporation to construct a canal a little over 6 miles in length around Niagara Falls, at a depth of 12 feet. This bill met with no opposition, except on the ground that it would make a draft upon the credit of the Government at a time when all its credit was required to raise money to prosecute the war to a successful issue. This bill passed the House of Representatives on the 1st day of February, 1865, by the decisive vote of 95 ayes to 51 nays. Lack of time only prevented its passage through the Senate, as Congress expired thirty days later.

A similar bill passed the House in the Thirty-ninth Congress, May 2, 1866, by 85 yeas and 32 nays.

After this it became evident that a canal of 12 feet depth would not meet the requirements of the increasing lake commerce. Congress on March 22, 1867, passed a joint resolution authorizing a survey to be made. This survey was made on the basis of a depth of 14 feet.

At the third session of the Forty-second Congress the Committee on Commerce reported February 13, 1873, favorably, an act to provide for the speedy construction of a ship canal around the falls of Niagara.

In the first session of the Forty-third Congress, Mr. Windom, from the Select Committee of the Senate, appointed to investigate and report upon the subject of transportation between the interior and the seaboard, submitted a report embodying the views of his committee and accompanied by testimony, maps, and exhibits. That committee devoted most earnest and careful consideration to the subject of the improvement of natural and the construction of artificial water ways. They personally inspected the principal existing and proposed water routes and grouped the leading facts relative to each route under appropriate titles. Their investigations embraced the cost of construction and improvements of such routes; their known or supposed commercial advantages; the cost of transport upon them, and many other facts having an important bearing upon the question of their relative importance as commercial highways.

Among the unanimous recommendations made by that committee was that for the consideration by Congress of the various plans of uniting the lakes with the Hudson River. The committee considered three routes by which the union might be effected, viz:

- (1) The enlargement of the Erie Canal from Buffalo to Troy.
- (2) The Oneida Lake and Erie Canal from Oswego to Troy.
- (3) The St. Lawrence River, Champlain Canal and Lake Champlain.

The national character of the proposed improvements and the benefits anticipated were fully set forth in the report of the committee and the powers of the national Government were discussed with marked learning and ability and most clearly established.

The House Committee on Railways and Canals of the Forty-eighth Congress had under consideration and recommended the passage of a bill to provide for the permanent improvement of the Erie Canal in its report dated March 4, 1884.

The same committee submitted a report February 26, 1886, to the Forty-ninth Congress in favor of a bill providing for the permanent improvement of the Erie and Oswego canals and to secure the freedom of the same to the commerce of the United States.

The river and harbor act of 1888 authorized a new survey for a water way around the Niagara Falls of capacity to float merchant ships and ships of war of modern build drawing 20 feet of water.

Under this provision a survey was made by Capt. Palfrey of two separate routes for a ship canal around Niagara Falls.

The Fifty-first Congress also had this matter under consideration and a favorable report was made to that Congress recommending the immediate entry upon the work of construction of the canal around Niagara Falls and an appropriation of \$1,000,000 to be applied to the construction of the canal.

Thus it will be seen that from the earliest history of our Government the necessity of this great work has been fully realized, and yet, except as to that part of the work relating to the survey of the canal around the falls, all conclusions as to feasibility and cost and as to choice of routes and plans have been based upon conjectures, general estimates, and opinions, and nothing has been predicated upon actual surveys and scientific demonstration.

The fact is patent that the interests of Canada and Great Britain on one side and the Eastern and Middle States on the other are diametrically opposed on this very question. The development of the St. Lawrence route, which Canada and Europe both desire, leaves New York as far from the markets of the West as ever, while the manufacturer of Europe is brought almost to their harbors as regards expense of transport.

A route by the way of the Erie Canal or some modification of that route is quite another matter. This would still preserve to the manufacturing East at least a portion of its present advantages as regards position, while the increased demand due to cheapening of transportation on heavy goods would doubtless make up the remainder, with the reasonable assurance of adding to it.

The point is to decide between improving the St. Lawrence canals or the Erie, either on its present lines or a modification of it.

There seems to be but one satisfactory location—by the Erie Canal, or contiguous to it. This leaves the entire route within American borders. It tends to unite the East and West more closely. It reaches the seaboard with very slight loss in distance. It follows the direction of general trade and reaches to its eastern center, New York.

To determine upon its exact location requires a more extended knowledge of the central part of New York State than is now possessed. Only a detailed and carefully planned survey can fully settle the question, but there are several alternatives open. The Erie may be improved throughout its entire length, thus avoiding a canal around Niagara, but this is open to several objections, *i. e.*: The length of actual canal is excessive, involving great expense in construction and maintenance, in water supply and repairs. There is no free river nor lake navigation, and canal speed must be maintained throughout. This means that the trip from Buffalo to Albany would take at least three days and probably four. It leaves Lake Ontario out of the chain of water communication, which omission is to be avoided if it is possible to include it without additional expense.

Next, a modified route may be adopted, via Lake Ontario, the Oswego River, Oneida Lake, and the Mohawk Valley, utilizing the Mohawk River to as great an extent as possible and striking the Hudson at a point at which the proper depth can be maintained. The use of the Oswego and Mohawk rivers and Oneida Lake offer the maximum of free lake and river navigation and the minimum of actual canal;

but the distance which can be canalized (that is, turned into long levels by dams and with lockages) in the Mohawk and Oswego are unknown quantities, likewise whether Oneida Lake can be included at all. In case it can not, it might still be used to great advantage as a reservoir for filling the upper levels of the excavated part of the route, for in the neighborhood of Oneida excavations would have to be resorted to.

It is believed that in view of the immense advantages to the material growth, prosperity, and welfare of our country, the seeming feasibility and the conjectural cost of a deep water way from the lakes to the sea there should be no hesitation or delay on the part of Congress to direct a survey to be made to determine by a scientific demonstration the feasibility and the probable cost of such a canal by the best possible route wholly within our own domain.

This is demanded by the mighty and growing agricultural interests of the vast Northwest; by the wonderful commerce of the Great Lakes and the majestic cities upon their borders; by the millions of consumers of the East, and by that wise and thoughtful statesmanship by which, being at all times prepared for triumph in war, we may at all times maintain an honorable peace.

Appended to this report are various statements, papers, and tables, containing interesting and valuable information and statistics having an important bearing upon the question, and to which attention is invited.

APPENDIX A.

FEBRUARY 1, 1892.

The Committee on Railways and Canals met at 10:30 a. m., Mr. T. C. Catchings, chairman, presiding.

The CHAIRMAN. If the gentlemen of the delegation desire, we will hear them.

Mr. PAYNE. I hope the committee will hear us. I shall now introduce to the committee the delegation from the lower end of Lake Ontario, and also the committee appointed by the Deep Water Ways Convention, recently held in Detroit, to lay before this committee the subject of access of ocean-constructed vessels to the Great Lakes. The project is one of enormous consequence to our people; I may say, so great that it is the paramount one, and concerns the transportation interest of 26,000,000, perhaps I may say 30,000,000, people at the present time.

I don't propose, as I have access to the committee, to go into the question at length, but I will ask the committee to hear in the order which they choose to select two or three of these gentlemen who are here present, giving what time they can spare from their other duties.

The CHAIRMAN. I want to say that the House meets at 12 o'clock; the committee therefore have an hour and ten minutes, which they can divide among themselves.

Mr. PAYNE. I will introduce to the committee Mr. S. A. Thompson, of Duluth.

STATEMENT OF MR. THOMPSON.

Mr. Thompson said:

Mr. Chairman and gentlemen of the committee, Ex-Governor Seymour, of the State of New York, once said, "The chief element in the prosperity of every State and nation is the economy of transportation of persons and property. It is the marked factor in the difference between civilization and barbarism."

The longer I study the matter the more I realize that these words are wholly true in their broadest and deepest sense. Transportation is a tax upon production and consumption. I wish, however, only to draw your attention for a few moments to some facts bearing on the greatest economy of transportation. The wagon way, the railway, and the water way are the three agencies by which transportation is accomplished, the wagon way being essentially local in its character, the railway continental, and the water way worldwide in its sphere of action. The wagon way will of course be left out of this question, although I believe the greatest tax on the farmers is the indirect tax which they have to pay by reason of poor roads.

Some ten or twelve years ago two gentlemen, both railway presidents, sat talking together in the office of an Eastern railway. One was president of an Eastern and the other of a Western road. The Eastern man stated that canal boats had been already retired and the river steamers partly driven into disuse by the continually increasing efficiency of railways, owing to the reduction of grades, the lessening of curves, and the building of more powerful engines and larger freight cars, and that it would be but a short time until the steamers of the Great Lakes would also be driven out of use, leaving to the railways an undisputed monopoly.

Standing by themselves the figures showing the reduction of railroad rates are very interesting. The average rate received by all the railroads of the United States in 1882, according to Poor's Manual, was 1.236 cents. According to statistics of the Interstate Commerce Commission for the fiscal year ending June 30, 1890, it was .941 cent. These are microscopic figures, but it means there has been a reduction of almost exactly 24 per cent in nine years.

When we go into the question of comparative reduction of rates we shall see that it is possible to increase the efficiency of steamships as well as of railways. According to a table which I have here and which I will give to the committee, I find that in 1868 the average charge for carrying a bushel of wheat from Chicago to New York, all rail, was 42.6 cents; while in 1885 charge had fallen to 14 cents. That is to say the total cost of carriage had been reduced two-thirds, all rail. It was only one-third as much in 1885 from Chicago to New York as it was in 1868.

During the same time, however, the cost of carrying by the all-water route, that is lakes, Erie Canal, etc., had fallen from 25.3 to 4.55 cents, a reduction of four-fifths in the same period.

Calendar years.	Lake and canal.*	Lake and rail.	All rail.
1868	25.3	29.0	42.6
1869	24.1	25.0	35.1
1870	17.5	22.0	33.3
1871	21.6	25.0	31.0
1872	26.6	28.0	33.5
1873	19.2	26.9	33.2
1874	14.2	16.9	28.7
1875	11.4	14.6	24.1
1876	9.7	11.8	16.5
1877	7.5	15.8	20.3
1878	10.1	11.4	17.7
1879	13.0	13.3	17.3
1880	13.2	15.7	19.7
1881	8.6	10.4	14.4
1882	8.7	10.9	14.6
1883	8.40	11.5	16.5
1884	6.59	9.9	13.2
1885	4.55	9.06	14.0

* Including Buffalo charges and tolls.

Let us return now to another question, getting as near as we can to the actual net cost of transportation. A careful series of experiments on the Grand Trunk Railway showed the actual cost of the movement of freight, exclusive of interest on bonds and dividends on stock, to be 0.5 cent per ton per mile. The average cost as reported to the Interstate Commerce Commission is almost exactly 20 per cent greater than this, while the lowest cost which I have been able to find on record is in the case of the Lake Shore and Michigan Southern, which in favorable years has reported a cost of 0.4 cent per ton per mile.

The average cost on the Erie Canal, according to figures from the State officials, is exactly half as much as that; while on the Aire & Calder Canal, in England, General Manager Bartholomew, who seems to be the greatest genius in canal management which the world has yet produced, reports that he has been able to reduce the cost of transporting minerals to 0.024 cent per ton per mile, and for general merchandise to 0.068 cent, the average being 0.046, and the cost of returning the empties being included in each case.

The figures grow more and more interesting as we go on, and when we turn to the Great Lakes, where we have deeper water, we find results which are almost startling.

Mr. James J. Hill, the Western railway president before mentioned, related some time ago the incident of his conversation with the president of the Eastern railway, and added: "I might have continued to share his belief in the ultimate triumph of the railway over the steamship, if I had not had occasion since that time to build and operate steamships for myself." These steamers carry 2,700 tons of freight on the present depth of water and make the run from Duluth to Buffalo in three and a half days, at an average cost of \$120 per day; this is equivalent to 0.015 cent per ton per mile. This means that we are doing to-day on the Great Lakes for \$1 what it costs the best railway in the United States \$26 to do. In other words, the general conclusion may be deduced from these facts that the larger the carrier and the deeper the water way the less is the cost of transportation.

This same railway president, Mr. Hill, speaking to a convention called in the interest of the water ways, held in a neighboring city of mine some two or three years ago, said; "The engineers of the United States are engaged upon a project by which to give us 20 feet of water through the lakes. We will take the 20 feet of water when it comes and make good use of it; but I will say to you that whenever they will guarantee me 18 feet of water I will build vessels which will carry 6,000 tons instead of 3,000; and I will cut the present cost of water transportation square in two."

Boats now on the lakes which can only carry 2,800 on the present draft of water, could carry 4,800 tons if there were 20 feet of water available, and with no additional expense but a little increase in the coal bill. Referring to the coal question, I will call attention to some facts. I find that on a number of the best vessels of the prevailing type on the lakes the average fuel consumption for 1891 was almost exactly at the rate of 1 ounce of coal per ton per mile, while for some vessels of the "whaleback" type, the new type invented and built at the western end of Lake Superior, I have a statement from the manager of the company recording the con-

sumption of coal for the past year as less than one-third of an ounce per ton per mile.

Another fact which is not generally known is that the best steamships on our lakes maintain a faster average rate of speed per hour than is maintained by any railroad on freight trains. Of course freight trains run about 16 miles an hour while they are running, but they must side track to get out of the way of passenger trains and there are other causes of delay; so that they only get an average rate of speed of 9 miles per hour, while the best modern steamers on the lakes make the run between Chicago and Buffalo at the rate of 16 miles per hour for the whole distance; so we are able to carry goods in less time than is required by the railroads and to do it at one twenty-sixth of the cost.

The effect on railway rates of water competition is exceedingly interesting and important. On roads subject to water competition freight rates invariably go up when navigation closes in the fall and go down again when navigation reopens in the spring.

A study of the statistics in Poor's Manual, or the report of the Interstate Commerce Commission, shows that the lowest rates are found on roads most subject to water competition. Take, for instance the Lake Shore and Michigan Southern, with its average rate of 0.653 cent and the Michigan Central with 0.726 cent per ton per mile, and compare these with the rates on the Chicago, Milwaukee and St. Paul and Chicago and Northwestern roads, which were 1.06 and 1.03 respectively. A multitude of similar facts could be adduced, but the strongest proof of the supreme control exercised by water ways on railway rates is furnished by the railway men themselves. In an argument before the Committee on Commerce of the House of Representatives, made in opposition to the "Reagan bill," in March, 1882, Mr. G. R. Blanchard, the well-known railroad attorney, said:

"The rail-carrying charges upon the great east-bound traffic to the seaboard, for both consumption and export, are, therefore, and must continue to be, limited by natural causes, and can not be beyond or as much as those which, in their absence, would be deemed fair and reasonable, and are always below the rates for like distances, articles and speed by rail anywhere in the world. So potent are these facts that it is within the power of, and is often the case that the combination or independent action of, a few sail vessels at Chicago can, in their seasons of navigation, procure rates from owners of an equal capacity of Erie canal boats from Buffalo to New York, which added to their own rates to Buffalo and transfer charges will fix, and have in actual practice fixed and regulated, the entire eastward through maximum rail freight charges for a time upon all kinds of grain and many other articles. * * * Can any safer limitation or check be legislated than the inflexible limitations nature enforces in its uncontrollable rivalry? * * * The application of water results are inexorable in their effects upon railroad rates within periods ranging from seven to eight months in each calendar year and usually all the year in rivalry with western rivers. * * * In view of all these facts, I now say, with Mr. Fink: 'Compared with this powerful regulator of railroad transportation tariffs, the efforts of State or Congressional legislation to prevent extortionate charges appear to those at all conversant with the subject as perfectly useless.'" To such a statement from such a source nothing need be added.

FAR REACHING INFLUENCE OF WATER WAYS.

It should be noted also that the influence of water competition is not confined to the roads which run close along the water ways. The New York Central and Lake Shore and Michigan roads, considered as one, are paralleled by a water way the entire distance from New York to Chicago, and rates are necessarily made under the influence of that competition. The Pennsylvania Central, lying perhaps 150 miles further south, can make no higher rates than the New York Central, otherwise the latter road would get all the business. On that point we have the testimony of a great many railroad men.

Mr. Albert Fink, the railroad commissioner, used the following words in 1878, in a letter addressed to Hon. William Windom, who was at that time chairman of the Senate Committee on Transportation Routes to the Seaboard:

"You are aware that when the rates are reduced between Chicago and New York on account of the opening of the canal, this reduction applies not only to Chicago, but to all interior cities (St. Louis, Indianapolis, Cincinnati) to New York. If that was not the rule the result would be that the roads running, say, from St. Louis, Indianapolis, and Cincinnati to Chicago, would carry the freight to Chicago, from which point low rates would take it to the East, and leave the direct road from the interior points to the seaboard without business. Hence, whenever the rates are reduced on account of the opening of navigation from Chicago and lake ports, the same reduction is made to all interior cities, not only to New York, where the canal runs, but to Philadelphia and Baltimore. Although the latter cities have no direct water-route

communication with the West, yet they receive the benefit, as far as railroad rates are concerned, the same as if a canal were running from the lakes direct to these cities, because whenever rates from Chicago to New York are reduced it is necessary to reduce the rates from Chicago to Boston, Philadelphia, and Baltimore; otherwise the business would all go to New York. The reduction of the rates from Chicago and St. Louis to Baltimore causes a reduction in rates on shipments via Baltimore to Atlantic ports—Norfolk, Wilmington, Savannah, Brunswick, and Fernandina—and from there into the interior of the Gulf States—Augusta, Atlanta, Macon, Montgomery, Selma, etc. * * * These roads * * * are obliged to follow the reductions made via the Baltimore road, and which were primarily made on account of the existence of the Erie Canal and the opening of navigation. The same way in regard to the west-bound business * * * so that it may be said that the rail rates are kept in check by water transportation."

Nor is water competition confined in its effect entirely to the season of navigation. The same authority last quoted testified before the Senate Committee on Interstate Commerce that at least, so far as grain rates are concerned, that influence extends throughout the winter. "For," said he, "if the rail rates are made too high, the grain is simply stored to await the drop in rates which is certain to come when navigation is opened."

INFLUENCE ON INTERIOR RAILWAYS.

It is wonderful to see in how many directions and to what a distance the influence of the water way extends. We have seen that it not only gives the cheapest form of transportation, but that it exerts a powerful influence on the railways which parallel the water route, whether close by or hundreds of miles away, and that this influence is felt even during the time when the water way is frozen up. And even this is not all. The beneficial effect of the water way extends also to the interior of the country, which is reached only by railway lines which terminate upon the water way and make a through line for the transportation of freight in connection therewith.

An illustration occurs to me: Rates on coal from the East are lower to Duluth than they are to Chicago, owing to circumstances into the details of which I do not care now to go, but because of this fact Duluth dealers have been able to sell coal as far south as Kansas City and to many other points which are much nearer to Chicago than they are to Duluth, and the cost of getting freight from New York to points in Montana, Kansas, Colorado, and the West generally is a great deal less than it would be if the Great Lakes were not where they are. As a further illustration of this fact, take the case of Aberdeen, Watertown, Huron, and other towns in South Dakota, where on the day they gained railroad connection with Lake Superior wheat went up 7 cents a bushel, and coal came down \$2 a ton.

Just a word as to the immense traffic built up on the lakes. In 1889, according to the estimate of Hon. George H. Ely, of Cleveland, there passed through the Detroit River, representing the commerce of all the Great Lakes except Ontario, a little over 36,000,000 tons of freight. In the same year the total tonnage, both coast and foreign entries and clearances, of every sea port in the United States—Atlantic, Gulf, and Pacific—was a little less than 26,000,000 tons; while the combined tonnage of Liverpool and London, both coastwise and foreign entries and clearances, was less than the tonnage of the lakes by 3,000,000 tons. It seems to me, gentlemen, that a traffic of such dimensions is entitled to a great deal of consideration at the hands of Congress. The traffic which was carried on the Great Lakes during the year just closed has been very accurately figured out, and we find that if this traffic, which was carried on the lakes last year at an average cost of about 1.1 mills per ton per mile, had been carried an equal distance by railway it would have cost \$150,000,000 more than was paid for its carriage by water. And as the total expenditure on all the lakes above Niagara Falls, under all the river and harbor bills on all lake and harbor improvements, has been less than \$30,000,000, it follows that the saving to the business interests of this country in one year has returned fivefold, and more the total expenditure during all the years of the past.

Now, we are here to ask at the present time, not merely this committee, but all members of Congress, to consider that, by a total expenditure of \$3,394,000, according to the estimate made by Gen. O. M. Poe, we can be given through all the connecting channels of the lakes above Niagara Falls a channel 20 feet in depth. As I have pointed out to you, the saving which would come to us from this added depth will make a greater reduction in the cost of transportation annually than the expenditure of the \$30,000,000 which has already been made. We therefore ask you to consider carefully the request which has been made by this convention. We ask you to consider the facts that have been presented, and that you will, by giving us this comparatively small appropriation, realize these benefits for us.

He who can most cheaply reach the markets of the world can control the markets of the world. That is an axiom to my mind. One or two lessons from foreign lands are interesting. The first canal was built in France one hundred years before Christ, and

they have been building canals ever since. If our state of Texas could be made into a circular sea and France made into a circular island there would be a strip of ocean 100 miles wide all around France, and yet that little country since 1814 has spent more than \$650,000,000 on canals, rivers and harbors, over \$700,000,000 more on railways, and I do not know how many hundreds of millions upon her wagon roads. During the terrible stress of the war with Germany they still kept building canals; and after the drain of that war and all that enormous war indemnity, in the seven years from 1870 to 1878 they spent 28,000,000 of francs on canals alone. As an indication of the widespread public appreciation of the advantage which canals and water ways are to that country, recently a plebiscite was taken to ascertain the popular feeling as to the question of constructing a ship canal, 114 miles long and 21 feet deep, from Paris to Rouen; out of 345,000 votes received there were just 13 against the measure.

It seems to me that the ease with which France recovered from the terrible drain of the war with Germany was because of the fact that they have an absolutely incomparable system of transportation facilities by wagon, railway, and water. There is nothing that is like it in completeness in the world.

Turn again to a country somewhat nearer home. Our little neighbor Canada, with a population no greater than that of New York State, has expended \$60,000,000 upon her water ways. That has a bearing upon something which I think has not yet been generally realized. This country is a great producer of grain and breadstuff, and so far we have managed fairly well to hold our own. To my mind one of the great causes of agricultural depression was the building of the Suez Canal, because that brought into competition with our people, by a direct water route, the cheap labor of India at 7 or 8 cents per day. But a competition is coming in the near future such as our people have never faced. I find that a parallelogram can be taken in the Canadian Northwest equivalent in size and productiveness to a parallelogram in Europe which would include the most of Germany and Russia, France, Holland and Belgium, Sweden and Norway, and Great Britain and Ireland.

We think that we in Minnesota know what fine wheat is. Minnesota and the two Dakotas raised 150,000,000 bushels of wheat this past year, and yet we never saw such wheat or dreamed of wheat of such quality before until we saw the wheat that came from the Peace River Valley, 1,500 miles northwestward from the far northwestern city of Duluth, in latitude 59° north and longitude 111° west. It is raised there every year. It is not a question of doubt, it is done every year regularly. Inside of five years, at the present rate of progress, there will be a clear water way through Canadian Territory of 14 feet in depth all the way from Lake Superior to the ocean. Gentlemen, when that time comes I say to you that 6 feet of water through the Erie Canal with a transshipment at each end can no more compete with 14 feet of water through the Canadian canals with no transshipment at all than a wheelbarrow can compete with a freight train.

What does it mean? It means that all the breadstuffs for direct exportation coming from that great region tributary to the Great Lakes will be carried by Canadian instead of American vessels. They have the privilege of touching at one American port on each trip, and if they can carry, as I believe they can, the grain at a cost of 10 cents per bushel from the head of Lake Superior to Liverpool, while it costs 25 cents by way of the Erie Canal and New York State, I am afraid there is not sentiment enough in trade to influence people to pay the double price.

We have held our own fairly well in competition with the cheap labor of India; but when we come to compete with men of our own race, with a climate no more rigorous, with a soil just as productive, and with transportation facilities immeasurably superior, the farmers of Kansas and Nebraska and the rest of our Western States are going to have an agricultural depression such as they never knew before, unless our own nation shall give us a way to the sea, so that our ships can go and come as freely as they do on the ocean. And we want a 21-foot channel, whereas they will have one but 14 feet deep.

Then there comes still another matter. I have been at Quebec. The old citadel there, of course, is of no use as against modern artillery; but on the other side of the river are fortifications of a modern type. I don't want to undertake to force a way by them. Halifax has been made as impregnable as Gibraltar. The Bermudas have been fortified so that they also are as impregnable as Gibraltar, and there is a dry dock there capable of lifting any war vessel in the British navy; at Kingston there is another fortification, a depot of naval and military supplies, and another great dry dock; again, St. Lucia, in the West Indies, is being fortified; so that they have drawn around our entire Atlantic coast a cordon of military and naval stations, and have connected them with a cable. These are supplemented on the Pacific by a magnificent naval and military depot at Esquimaux; so that in an hour, on receipt of a telegram from London, they could launch a fleet from Halifax against Boston, New York, and Philadelphia; from the Bermudas against Charleston and Savannah, and from Kingston against the ports on the Gulf; while if the Panama Canal or the Nicaragua Canal are ever completed, there is a fortified post with British guns

pointing directly into the mouths of those highways of commerce, and these posts are held in time of peace by 10,000 British regulars and guarded by sixteen of the best war vessels in the world.

In the report of the House Military Committee, published in 1862, I find these words:

"The United States and Great Britain are equally prohibited by treaty stipulations from building or keeping afloat a fleet of war vessels upon the lakes. At the same time, on the shores of these lakes the United States have many wealthy cities and towns, and upon their waters an immense commerce; these are unprotected by any defenses worthy of special notice, but are as open to incursion as was Mexico when invaded by Cortez. A small fleet of light draft, heavily armored gunboats could, in one month, despite of any opposition that could be made by extemporized batteries, pass up the St. Lawrence and shell every town and city from Ogdensburg to Chicago. At one blow it could sweep our commerce from that entire chain of waters. To be able to strike a blow so effective, Great Britain constructed a canal around the falls of Niagara. By this single stroke the entire chain of lakes was opened to all British light-draft ocean vessels. Perceiving our ability to erect works upon the St. Lawrence that might command its channel and thus neutralize all they had done, Great Britain dug a canal from the foot of Lake Ontario on a line parallel to the river, but beyond the reach of American guns, to a point on the St. Lawrence below, beyond American jurisdiction, thus securing a channel to and from the lakes out of our reach. Occupied by our vast commercial enterprises and by violent party conflicts, our people failed to notice at the time that the safety of our entire northern frontier has been destroyed by the digging of two short canals. Near the head of the St. Lawrence, the British, to complete their supremacy on the lakes, have built a large naval depot for the construction and repair of vessels, and a very strong fort to protect the depot and the outlets of the lake, a fort which can not be reduced—it is supposed by them—except by regular approaches.

"The result of all this is that in the absence of ships of war on the lakes, and of means to convey them there from the ocean, the United States, upon the breaking out of war, would, without navy-yards and suitable docks, have to commence the building of a fleet upon Lake Ontario and another upon the upper lakes. At the same time, England, possessing a naval depot at the entrance to this system of waters, can forestall us in all our attempts, both offensive and defensive.

THE COLOSSAL PRIZE AT STAKE.

It is not necessary to call your attention to the enormous increase in the size and importance of the cities upon the lakes, and in the extent of the commerce carried upon these waters since these words were penned, nearly thirty years ago. It is a shame and a disgrace to this great nation that this commerce and these cities are just as defenseless to-day as they were then. In the report of the Board of Fortification published in 1886, I find a list of one hundred and eleven vessels in the British navy drawing 12 feet or less. How many more there are that draw 14 feet or less, I do not know.

Gentlemen, within three, or at the most five years from the present time, it will be possible, according to the best information I can get, for more than one hundred and fifty vessels of the British Navy to pass through Canadian canals situated in Canadian territory into the waters of the Great Lakes, which they have the same right to navigate that we have.

Q. Couldn't we seize the Welland Canal and stop their passage?—A. Yes, if they did not start until after war was declared. But you will remember that when there was a prospect of trouble with Chili we did not wait until war was declared, but sent every available cruiser steaming southward as fast as it could go, so that it might be in a position for use if it should be needed. The treaty at present in force by which both nations are prohibited from building or keeping afloat a fleet of war vessels upon the lakes can be abrogated by either nation on six months' notice. Suppose Great Britain gives the necessary six months' notice and abrogates that treaty. She is a sovereign nation and has an undoubted right to do so, and when it is done they can introduce their war vessels into the Great Lakes, and have at their mercy not only the magnificent commerce of the lakes, which I have briefly described to you, but also every city from Ogdensburg and Oswego to Chicago and Duluth, whenever they choose to declare war, unless this nation is prepared to take and maintain the position that, treaty or no treaty, the passage of a single British gunboat through the Welland Canal is to be considered as an act of war.

Commercially considered, a water way from the lakes to the sea would be worth a hundred-fold its cost, although that cost will necessarily be large; but considered from a military point of view, it seems to me that this great nation can no longer afford to leave the commerce and the cities of our northern lakes in their present defenseless condition. We have not a fort or a gun worthy of the name on all the chain of lakes, and no possible way to put into the lakes a single vessel, of war while

the other nation owning the territory on the north can put her whole navy armament with the exception of a few vessels into these lakes, and have our cities and our commerce absolutely at their mercy unless we prepare some way in which to meet them.

Turning now from the general question, I wish to give you a few of the reasons why we ask that some one of the pending bills providing for a ship canal around Niagara Falls should be passed and the construction of a water way from Lake Ontario to the Hudson should be undertaken. One suggestive fact is, that in consequence of the great wheat crop of the past year there were at one time last fall between ninety and one hundred vessels lying at Buffalo and in danger of freezing up in the outer harbor because they could not get to an elevator. All the facilities available were utterly inadequate to take care of the flood of grain poured in upon them from the West. If we had a canal around Niagara Falls, the branch of the Erie Canal at Oswego would be equally available as at Buffalo, also the six or seven railroads which would come into competition with those terminating at Buffalo; and those vessels, instead of lying perforce at the end of Lake Erie, would have gone down to Oswego and had their cargoes satisfactorily and cheaply cared for.

Q. Has there been a survey and estimate made of the cost of the work around Niagara Falls?—A. I understand that there has. There have been some surveys made in the past, a number of them, but not on the basis of what we call a ship canal. Capt. Kingman, of the Engineer Corps, is present this morning, and he can answer these questions. Estimates have been made, as I understand, for a canal 12 feet in depth; but the whole West would protest against the building of a canal around Niagara Falls unless it is made at least 20 feet in depth.

The advantages in the way of competition of the Niagara Ship Canal have been mentioned, but I believe further that Lake Ontario should be brought into connection with the other lakes. It is a simple matter of justice to the people lying on the borders of that lake. Why should it remain permanently cut off from the other lakes any more than our own great lake of Superior should have remained so by the falls at the Saulte de Ste. Marie.

Then another reason why, in my judgment, this route around Niagara Falls is the best: I find that in looking over the possible routes that by this one we have the great advantage of 110 miles of open navigation in Lake Ontario. Progress through a canal probably is only from 4 to 5 miles an hour—under exceptionally favorable conditions they go 7 miles an hour—while our vessels steam 14, 15, and 16 miles an hour in the open lakes. Through Oneida Lake there will be the same advantage of deep water; and when we come to the Mohawk we will canalize that river as they have done on the Rhine and the Main, and there, with natural banks of the river and the deep channel in the center, boats can go as rapidly as they desire, and it will be of the utmost advantage in that particular. Then another reason for the route by the way of Niagara Falls and through Oneida Lake and Oneida River: This is the only route that can be found on the map which does not involve the crossing of numerous streams. You will notice that we go with the streams, instead of crossing them and involving enormous expense and difficult structures.

I have spoken to you, gentlemen, so far, rather disjointedly, but to sum up in a word what has been shown by experience, the cost of transportation by water is far less than the cost of transportation by rail; and by giving us deeper water for larger vessels the cost will be still further reduced. As a proof of the influence of the canal on railway rates I will say that as long as the Erie Canal was open the railroads were carrying grain at $3\frac{1}{2}$ cents a bushel—less than cost—but immediately the season closed the rate jumped up to $7\frac{1}{2}$ cents; that is one benefit of competition. We in the Northwest want to be put in the same position with any part of the nation and at all seasons of the year. The people of the West want to get their products shipped just as cheaply as any part of the nation.

Then, among other advantages, there are \$63,000,000 worth of vessel property on the lakes, the value of which, if a water way was opened out to the ocean, would be almost doubled instantly; because instead of tying up at docks and in our lakes they would pass out to the ocean and engage in ocean traffic during the winter, and the earning capacity of the vessels would thus be doubled.

Q. What is the depth of water in the Hudson?—A. From Albany to Coxsackie, I understand, they have 11 feet of water. An estimate has been recently made that to deepen the channel to 22 feet, so as to make an available 21 feet of navigation from Coxsackie up to Albany, would cost over \$5,000,000. This estimate I am inclined to consider much too high; because the cost of rock work is set down as \$10 per cubic yard, while similar work has been done in other places as low as \$1.20 per cubic yard.

Q. How is the depth of water from there to New York?—A. I understand there is some 20 feet of water from there to New York, so that a very small expense will give us an available depth of 20 feet to Albany.

Now, gentlemen, I shall not trouble you any further. I thank you for your courtesy in listening to me so long; but it seems to me that in the light of the figures I

have given here and in the light of the military advantage and the commercial advantage, this Niagara Ship Canal should be constructed. It will be the great through route to the ocean which we must have if we are to hold our own with the rest of the world.

You will pardon me for just one more word which has occurred to me. I do not desire to be in the least understood as opposed to railroads. Demonstrated facts prove that instead of being a disadvantage it is a great advantage to a railroad to have a water way alongside. I thoroughly believe that the best thing that could happen to every railroad in this country would be to have a ship canal paralleling every mile of its track. In 1886 the river Main was canalized from Mayence to Frankfort. In 1887 the business of the river increased 64 per cent, and in 1888 42 per cent, above the figure of 1886, while the business of the two railways lying on either side of the river increased 36 in 1887 and 58 per cent in 1888. The business of the city was enormously increased. Previous to that time Frankfort had practically nothing to sell and everything to buy, while, following the cheap freights made possible by the improvement in the river, manufacturing industries were so stimulated that traffic from the city was equal in volume to traffic towards the city. Taking an illustration nearer home, look at the New York Central Railway, running for hundreds of miles on the very banks of a water way, and subject to water-way competition for its local as well as its through traffic, yet there is no better dividend-paying road in the United States and no other which has been compelled to build four tracks to accommodate its business.

Mr. PAYNE. I will now introduce Capt. Kingman to the committee.

The CHAIRMAN. This is Capt. Kingman, of the Corps of Engineers, now stationed at Oswego, on Lake Ontario.

Capt. KINGMAN. Do you wish me to answer questions, or shall I proceed to discuss such matters relating to the subject under consideration as I think may be of interest and importance?

The CHAIRMAN. Proceed in your own way, Capt. Kingman; some of us, at least, have listened to you before upon other subjects.

STATEMENT OF CAPT. KINGMAN.

Capt. Kingman said:

In speaking of a deep-water route from the Great Lakes to tide water I shall confine myself to the engineering considerations alone. The public importance and commercial value of such a route have already been fully set forth. I regret very much, however, that I find myself at the outset forced in many cases to limit myself to stating what I *think*, instead of being able to declare positively what I *know*. This is due to the absence of that exact knowledge of all of the difficulties to be met and overcome which can only be obtained by a complete and exhaustive examination and survey of all of the possible routes. A survey, too, made with reference to securing just such a route in depth and capacity as we now propose to secure. And no such survey has ever been made. I am referring only to that portion of the route that lies between Lake Erie and Albany, on the Hudson.

In 1867 Col. Blunt, of the Corps of Engineers, made a survey of a number of routes for a canal around the falls of Niagara to connect lakes Erie and Ontario. The canal proposed was 90 feet wide at the bottom and 14 feet deep. The locks were to be 275 feet long, 46 feet wide, and having a lift of about 15 feet each. Six different routes were examined and estimated upon. There was little difference in their cost, it being about \$13,000,000 in each case. The report does not indicate a preference for any one of these routes.

Twenty-one years later, in 1888, the needs of commerce having long since outgrown the project of Col. Blunt, another examination was ordered by Congress with a view to ascertain the cost of a canal equal to modern requirements. The results of this investigation are to be found in the report of the Chief of Engineers for 1889.

It does not appear from this report that a new survey was made or that any additional information as to the difficulties to be overcome was gathered. Under authority contained in the act ordering the survey, the information obtained by Col. Blunt in 1867 was permitted to be used, and was used as a basis of estimate.

In the 1889 report, estimates are given for but two routes, and a preference is indicated for a route starting at Tonawanda, on the Niagara River, and terminating on Lake Ontario, at Olcott, about 18 miles east of the mouth of the Niagara River. This route certainly seems to possess decided advantage over any of the others proposed.

The new plan contemplated a canal 100 feet wide at the bottom, 150 feet at the water surface, and 20½ feet deep, having locks 400 feet long and 80 feet wide with a lift of 18 feet. The estimated cost of this work was \$23,617,900.

I can not help thinking that this estimate is large. For example, the unit price assumed for rockwork is \$1.25 a cubic yard. This is the same as was used in the es-

timates of 1867. If the work could have been done at this price in 1867, and there seems to be no good reason to doubt it, then the latter estimate ignores all the advantages resulting from the improvements of twenty-one years in the methods of handling rock, due to the use of high explosive compounds, electric fuses, and power drills.

The rock along the line of the canal is not very hard, and it will not be necessary to work it under water. It does not seem unreasonable, therefore, to expect that a material reduction might be made in this item of the estimates.

The unit price for earth was 25 cents a cubic yard—also the same as was estimated twenty-one years before. This would seem to ignore all of the increased facilities for handling earth resulting from the general employment of steam excavators and conveyors.

The estimated cost of the locks was based upon that of the lock at the Saint Marys Falls Canal, allowance being made for the difference in size. This ought to be an accurate method, other things being equal. But it must not be forgotten that this lock begun in 1870 and was thirteen years under construction; that it presented many difficulties that were new then, but which we now know, as the result of experience, exactly how to meet. I do not think that the builder of that lock would hesitate to undertake to duplicate it for a good deal less than it cost.

Again, there seems to be no good reason why the lift should be limited to 18 feet, which requires eighteen locks and a guard lock, to be used to overcome the difference of level between the lakes. It would certainly tend to expedite transit through the canal if the number of locks were reduced to a minimum.

If the lift was increased to about 25 feet the number of locks could be reduced to thirteen; and if it was increased to about 32 feet, the number could be reduced to ten.

Of course a deep lock would cost more than one with a small lift, but between a great many shallow locks and a few deep ones there would be found a number which would give the most economical and advantageous result. I can not tell now exactly what the number would be, but I am inclined to the opinion that twelve or thirteen locks would be the proper number.

This reduction in the number of locks would doubtless reduce the amount required for lock construction. Finally, more than \$2,000,000 was included in the estimate for "contingencies."

Taking all things into consideration, it seems not unreasonable to expect that this canal could be built to-day for a sum materially less than that named in the report.

But it is by no means certain that the canal would in all respects meet the present requirements, so great has been the increase in the size of our lake vessels in the last few years. In fact, it seems certain that the length of lock proposed, 400 feet, would be insufficient to admit some of the vessels that will be afloat on the upper lakes before this canal could possibly be completed. Therefore I think estimate should be made for locks not less than 500 feet long.

On the other hand, a bottom width for the canal of 100 feet may perhaps be found unnecessarily large. The Suez Canal is only 72 feet wide at the bottom, and it has been stated that it is very fortunate that it was not made any wider, as vessels steer better and are more easily controlled in it than they would be in a wider one.

In this canal vessels do not attempt to pass each other wherever they may happen to meet, but wide places, called gares, are provided at suitable intervals, and the meeting of vessels is arranged in the same manner as that of trains on a single track. The one having the right of way keeps on its course, while the other enters the gare or siding and is secured to the bank. It is thought that this way is safer, better, and more expeditious in the long run than it would be to let large vessels pass each other at will in a canal of any width that it would be practicable to build.

If this theory is sound, then it might be possible to save one-fourth of the excavation proposed in the Niagara Canal by reducing the bottom width from 100 to 75 feet. The surface width I think should be greatly increased where the cut is in earth. Instead of 150 feet I would make it at least 300 feet; and I would make the side slopes from the water surface down to a depth of 6 or 7 feet very flat, like the natural shores of a lake or pond, and from this depth to the bottom of the canal I would make the slopes as steep as the material will safely stand, say about 1 on 2.

The upper flat slopes would be protected by a riprap or pavement. The lower slopes would be left of earth, so that a vessel would not be injured if it happened to strike them. This form of canal would give the wave raised by the vessel a chance to spread and break on the flat slopes as on the beach, would afford space for the water to flow round the vessel, and ought to reduce the resistance due to passing through a narrow channel to a minimum.

So much for the Niagara Canal. And now after getting vessels down into Lake Ontario, it is necessary to provide a way for them to pass from it to tide water in the Hudson River, say at Albany.

The best route for this purpose seems to be via the Oswego River to the mouth of

the Oneida River, then up this river to Oneida Lake, thence across the lake and over the divide to the Mohawk River near Rome, thence down the Mohawk to the Hudson. We have not as good information as to the cost of a ship canal via this route as we had in the case of the Niagara Canal.

The present Erie Canal affords a route along this line for vessels drawing something less than 7 feet. In 1874, Col. Wilson, Corps of Engineers, made a survey of this route and prepared estimates for a canal 120 feet at the bottom and 10 feet deep, having locks 185 feet long, 29 feet wide, and with 9 feet of water on the miter sills. The locks to have an average lift of about 9 feet. The estimated cost of such a canal was \$25,000,000.

Of course this was not a ship canal at all. It was intended for the use of steam barges or canal boats capable of carrying 28,000 bushels of wheat. And it falls so far short of what we now desire that it is of very little value as a means of determining what a ship canal would cost.

We can, however, form a rough estimate of the probable cost in this way: Taking the estimate for the Niagara Canal as a basis (and from what I have already stated about it we shall be likely to err on the side of safety), we find that the total amount of lockage on the Mohawk Canal is 610 feet, being nearly double that on the Niagara Canal. On the latter the estimate for locks was \$10,000,000, therefore the locks from Lake Ontario to Albany should cost double the sum, or \$20,000,000.

The distance (leaving out the length of Oneida Lake) is about seven times as great as the length of the Niagara Canal. The estimated cost of excavation on the Niagara Canal was \$10,000,000, therefore, other things being equal, the excavation of the Mohawk Canal ought to be seven times as great, or \$70,000,000. This would make the total cost about \$90,000,000.

I am satisfied that this is too large, because with exception of a short distance between Oneida Lake and the Mohawk River this route really would not be a canal at all, but would consist of three canalized rivers, namely, the Oswego, the Oneida, and the Mohawk. And as the existing channels of these rivers would be utilized to the fullest extent, the amount of excavation would certainly thereby be greatly reduced.

In this rough way, however, you can form some idea what the cost would be.

The principle objection which is always raised to this Mohawk Valley route is the want of a sufficient supply of water for the summit level. They have considerable trouble now in periods of protracted drought in obtaining sufficient water for the present Erie Canal with its seven-foot depth. And the opponents of this route ask, with apparent reason, "How are you going to obtain water for a canal of five times the capacity of the present one?"

The present water supply is drawn from the Black River, a tributary of the St. Lawrence, and from certain reservoirs in the Adirondack region. It is stated in many of the reports upon the subject that the present reservoirs are not utilized to the best advantage, and that many others might be built which would enormously increase the supply. But if this source should prove inadequate we have an inexhaustible supply in Lake Erie.

The level of the water in Lake Erie is about 150 feet above the summit level of the canal at Rome, and there are no insurmountable obstacles in the way of conducting this water in any desired quantity to the Rome level by the construction of an open feeder similar to the large irrigating ditches now under construction or in use in some of the Western States.

Such a feeder might leave the Niagara Ship Canal at Lockport, at which point the water would be very nearly at Lake Erie level; it could then either be carried by a route entirely separate and distinct from that followed by the Erie Canal to the Rome level, or else a portion of the present Erie Canal might be utilized.

The water from Lake Erie is now carried in the Erie Canal as far as Montezuma, a point where the canal crosses the Seneca River. This point is below the Rome level, and of course the water can not now be utilized beyond this point. If the Erie Canal was used at all it would be necessary to depart from it in the vicinity of Rochester, and maintain a higher grade, in order to carry the water over the present low portion.

A different crossing over the Montezuma marshes would undoubtedly have to be selected, and the water carried across this low ground either by means of a viaduct similar to those used in the West, or possibly by an inverted syphon.

It might be asked, if all this work is to be done in order to bring water from Lake Erie, why would it not be better to make this feeder a little larger and use it as a ship canal? The answer would be, that in the case of a feeder which is not to be navigated, we should be able to resort to tunnels, inverted syphons, and other similar devices when necessary to carry the water over and through obstructions, and we should not be so restricted in the matter of alignment as in a navigable canal. For these reasons a feeder which would be ample for the purpose could no doubt be constructed for a very small fraction of the cost of a navigable canal.

Finally, the great advantage which this route—that is to say, the route by the Niagara Ship Canal, Lake Ontario and the Oswego, Oneida Lake and Mohawk River,

offers over any other route which can be selected, is this, that it does not cross any natural water course. For a canal only 6 or 8 feet in depth, it is not a very difficult matter to cross a river by means of an adequate bridge, but when it is a question of a canal which is to be 20 feet deep, the difficulty is enormously increased. In the first place the weight of water to be carried, which would be more than 1,200 pounds to the square foot of surface, would require very heavy and massive structures. Moreover, it would be very difficult and would impose many hard conditions to bring a canal to a river in such a way as to enable us to hold its surface more than 20 feet above the level of high water in the river.

In the case of small streams which a canal intersects, three things can be done; either the stream can be carried under the canal in a culvert, or else it can be carried over the canal by a bridge, or else it can be admitted into the canal as a feeder.

The first method is the one generally used in canals of moderate depth, but it would be very difficult and expensive to apply it in the case of a canal that was 20 feet deep as it would generally involve a lowering of the bed of the stream for a considerable distance on each side of the canal, or else the use of an inverted siphon, which would be a very unwise expedient as it would be liable to be choked up by sediment and thus dam the stream.

To carry the small stream over so large a canal would also be very difficult, and would require the use of a drawbridge in order to allow the passage of vessels in the canal, therefore to admit the small streams into the canal would be almost the only practicable expedient, and this would be objectionable and often dangerous, because of the large amount of water and solid material that might be delivered in time of freshets.

One of the most serious obstacles that the Panama Canal had to encounter was the Chagres River, which it intersected a number of times in its course, and which formed an obstacle for which no very satisfactory remedy was ever found.

The canal from Oswego to Albany, would be situated in the beds of existing streams. It would take the line of the natural drainage of the country.

It would therefore receive in a natural way, as feeders, all of the tributary streams, and would be likely to suffer the least possible loss from seepage.

Q. What would be the total cost of this project?—A. According to the rough estimates which I have given, it would be about \$20,000,000 for the Niagara Ship Canal and \$90,000,000 for the canal from Oswego to Albany. In all, \$110,000,000.

Q. That would be on the presumption that the Government would supply the money as rapidly as possible?—A. Yes. It would be on the supposition that no injurious or expensive delay should result from the failure of appropriations; in other words, it is on the supposition that the money should all be appropriated at once, or that provision should be made by law for awarding contracts for the whole work, to be done and paid for as money was appropriated.

Q. How long would it take to complete this project?—A. It would take at least three or four years.

Q. You would want, then, about \$25,000,000 or \$30,000,000 a year, or as large an amount as the appropriation for all the river and harbor improvements of the whole country?—A. Yes, if it was intended to push the work as fast as possible, but it would not in any case be necessary to have as much as this for the first year.

Q. When we appropriate \$23,000,000 for all the rivers and canals in the country, we are very much abused?—A. Not by those who fully understand the value and necessity of these works.

Q. Would you utilize the old Erie Canal from Syracuse down?—A. I do not think that the location of the present Erie Canal would be the most favorable one. I think the route would follow the channels of the Oswego and Oneida River, and would then pass through Oneida Lake, and leave it so as to strike the Mohawk by the shortest possible line, and would then follow the channel of the Mohawk.

Q. You would not touch the Erie Canal at all?—A. No, sir; we would go back to the old canoe and bateau trail used by the Indians, a route that was mentioned as worthy of improvement by the surveyor-general of New York as early as 1724.

Q. I understand a survey has been made below Albany as an independent project?—A. A board was appointed to consider that subject in consequence of a section in the last River and Harbor bill. What results they arrived at I do not know. It was of course quite independent of the ship canal project. It was a link, however, in the chain, and would be of immediate advantage in bringing ocean navigation that much nearer to the lakes.

Q. In your opinion, does the value and importance of the project demand the expenditure necessary for a close survey and estimate to determine the actual feasibility of a water way from the lakes to the Hudson?—A. Yes, sir; it is certainly a project of great promise, and it has never had a thorough survey. We had a survey made from Oswego to Albany for a 9-foot canal; but that was a very small affair. According to the surveys and estimates then made such a canal could be built for \$25,000,000.

Q. Do you know what the cost of the Erie Canal was?—A. I think the total cost was about \$50,000,000, of which the enlargement cost about \$42,000,000.

Q. What would be the cost of a thorough survey?—A. If the survey was limited to this one line, which I have described, that is to say, from Tonawanda to Olcott, and from Oswego via Oneida Lake to Albany, a thorough and satisfactory survey might be made for \$35,000 or \$40,000. If it was necessary to consider the construction of a canal on some other route or routes from Lake Erie to tide water, then, of course, the cost would be a great deal more.

Q. How much would it cost to make a survey of a route from Oswego to the Hudson?—A. For this part of the route about \$25,000 if made for a single route, but if it was going to be a general survey, and a good many other routes were to be considered, requiring a number of surveys, then, in that case, \$100,000 might not be too much. However, if you limit it to the route which I believe to be the best and only feasible one, then the smaller sum, that is, \$40,000 would be amply sufficient.

Q. Don't you think it would be necessary to consider all the available routes in order to stifle criticism?—A. From this point of view, as matter of policy, they ought all to be considered, of course, because every route has its own advocates and friends who know its advantages and who would advance the best of reasons in favor of their own particular route, and in order to satisfy everybody I think every route should be examined and thoroughly considered.

Q. Do you deem it feasible to adopt the Champlain route, and have a communicating waterway on our own territory?—A. I think that would be impossible.

Q. In your judgment is it likely that a sufficient water supply could be obtained in the Adirondack region and Black River for the purpose of this canal from Oswego to the Hudson?—A. It is possible that a sufficient supply might be so obtained. This subject would be fully investigated and it might not be necessary to draw water from Lake Erie at all. I do not think that the canal proposed would require as much water in proportion to its size as the present Erie Canal. A very considerable portion of the water required to supply any canal goes to make up the loss from leakage. The general level of the Erie Canal in the Mohawk Valley is some 20-odd feet above the river. This position must be favorable to leakage. The water in the canal must tend to escape through the soil and find its way to the river, the natural drain of the country. But if the canal generally occupied the bed of the river itself, the loss from leakage would certainly be greatly reduced.

This occupation of the river by the ship canal would not in my opinion work any injury to the existing water-rights. On the contrary, I think it would generally benefit them, because the United States would construct and maintain better dams than now exist there.

Q. How many routes have been proposed for the Niagara Ship Canal?—A. Some six routes were reported upon by Col. Blunt, but the one which starts from Tonawanda and goes in a nearly straight line to Olcott is undoubtedly the best route. It passes near Lockport and then descends in a natural gorge, which is a favorable place for the construction of locks down to Lake Ontario.

Q. I assume you are familiar with the other routes?—A. I have seen the results of the surveys and I know something of the ground itself. Three of these routes are simply for short canals around the falls, and return to the Niagara River before it enters the lake. None of them offer any advantage in cheapness or ease of construction over the Olcott line, and all of them are open to the very serious objection from a military standpoint, that one or both of their entrances is in view at short range of the territory of another nation. So that in time of war they could easily be blockaded or destroyed by land batteries.

The Tonawanda line, however, has its upper entrance behind a large island several miles in extent which belongs to us, and which might be fortified, while its lower entrance is in Lake Ontario, 18 miles from the mouth of the river.

Q. In the recent report are the estimates based on calculation or on the cost of other works?—A. They are based on the survey of the ground made in 1867, and such an examination as was then made to ascertain how deep rock would be found and what the character of the rock was. I think they computed the number of yards of rock-work the number of yards of earthwork to be done, as nearly as they could, and that the cost of the locks was based very largely on the actual experience gained in the construction of lock at Sault St. Marie, which is of course as safe an estimate as you can get.

Q. Have the processes of construction been improved largely of late?—A. Yes; immeasurably so. We have now means of transmitting power by electricity or by compressed air, which have been enormously improved of late, and we have a water power behind us that exceeds anything in the world. We can use this water power directly from the tunnel at Niagara Falls, or we can take it to Lockport, which would not be so far away. We can put in our water wheels and convert the power into the form of electricity and carry it along the sides of the excavations, and can run all dump cars, dredges, and drills by electric motors; and we ought to be able to accomplish

results in the way of economy and efficiency that have never been equaled in any work of this kind.

To illustrate what this power is: The total amount of earth that would have to be excavated, in order to form the Niagara Ship Canal according to the present project, is about 13,000,000 cubic yards. A large amount no doubt. If it were placed in a hemispherical mound it would bury the Washington Mounument out of sight. But there is power enough in the water going over the Niagara Falls, if it could be applied and made to work, to excavate this enormous body of earth from the canal and place it on the bank in a little less than seven minutes.

Q. Do you think the various routes have been sufficiently investigated; that is, do you think it would be necessary to go over all the routes again in a survey?—A. In my judgment it would not; but I think, as has been suggested, that for the purpose of satisfying all criticism and convincing everybody that this the best route to take, and why it is better than any other that might be proposed, it would be well to extend the survey in sufficient detail over all the other suggested routes.

Q. I have no doubt that the different localities would have to have a hearing in order to decide the best route to take. We will be pestered to death if we did not give them a hearing. How long do you think it would take to have that survey made?—A. The survey of all the routes could be accomplished in one summer. It would simply be necessary to increase the number of surveying parties. That is, all of the field work could be done in one summer, and a report be prepared in the course of the following winter. I think a year would be the proper length of time in which to furnish a satisfactory report.

Q. What would be the probable cost of such a survey?—A. Well, if confined to the one route that I have suggested, it would cost from \$35,000 to \$40,000. If it were extended to include all the routes so as to be prepared to meet all criticism, I should say it might cost \$100,000.

Q. Would not the survey, at present made on the Erie Canal route, be sufficient for determining whether that was a feasible route or not?—A. No, sir; it would show that this was a possible route for the Erie Canal, but that is not what we want. When it becomes a question of building a canal three times as deep as the Erie, we should encounter innumerable obstacles that did not trouble the smaller canal at all. Moreover, it would not be fair to this route to condemn it on the strength of what is known about the present Erie Canal, if the result of our examination of these facts should be unfavorable, for it might be that a different location, but one following something the same course, would be very much more favorable for a ship canal.

Q. The only practical route is through British territory, so that the only surveys necessary would be the Erie Canal route and the route you speak of.—A. Yes, sir; I think we can safely say that.

Q. I understand the present route of the canal from Oswego to Albany is not, in your judgment, as practical an one as a route which would seek a lower level in the beds of streams, and therefore there would have to be a new survey made.—A. Yes, sir; that is my opinion, particularly as regards the line in the Mohawk Valley.

Q. Could not the surveys made by Col. Blunt, which cover from five to six different routes between Lake Erie and Lake Ontario, be utilized. Are they of a character to be utilized at this time?—A. They could be utilized to some extent; that is, they would take the place of preliminary reconnaissances. They would show the engineer where to look for what he wanted to find; but they would not be sufficient in other respects.

Q. Don't you think that even on these routes a less extensive survey could be made?—A. I doubt it. I think that a topographical survey of the proposed route should be carefully made, the nature of the ground should be examined at intervals of a quarter or a half mile by pits sunk to a depth considerably greater than that of the proposed canal, and the character of the rock should be carefully examined so as to ascertain its hardness and the difficulty or ease with which it may be worked; and all these things ought also to be carefully done over the Mohawk route.

Q. You are satisfied in your own mind, from preliminary examinations already made that this is the most feasible route?—A. Yes, sir.

Q. But only suggest as expedient, and to answer the criticisms of other contending interests, that it might be advisable to examine the other routes?—A. Yes, sir.

Mr. PAYNE. The chairman of the committee suggests that there may be some facts and figures that these gentlemen who have addressed the committee would like to add to their remarks, so that they may be incorporated with the printed documents.

The CHAIRMAN. These remarks can be revised and they can make it as full as they desire.

The CHAIRMAN. It is now 12 o'clock, but if the gentlemen would like to have a further hearing we can give them an hour on Thursday at the same hour as to-day.

Mr. SLOAN. I desire to thank the committee for the courtesy of offering us time for a further hearing; but I believe it is the general opinion that the question has been very ably and very fully discussed; that the ground has been thoroughly covered. We

are, therefore, quite willing to leave the matter as it is, expecting, of course, if any information can be given in regard to the wishes of those we represent, that such information will be given by our representative in Congress, Mr. Payne. We want to thank the committee for the favor, but we don't see there is any necessity for us to try to add anything to what has been already said.

Mr. PAYNE. I will be glad to give the committee any further information that is within my power.

The CHAIRMAN. Thursday is our regular day; and we will give Mr. Payne an opportunity to be heard on that day, if it is agreeable to the rest of the committee.

This was agreed to by the committee, with the proviso that the clerk be ordered to put into the notice that the hearing on that day is to be on this subject of water ways.

Adjourned.

APPENDIX B.

AN OPEN LETTER FROM HON. HORATIO SEYMOUR, FORMERLY STATE ENGINEER AND SURVEYOR OF NEW YORK, IN REGARD TO THE COMMERCE OF LAKE SUPERIOR.

MARQUETTE, MICH., *February 20, 1892.*

DEAR SIR: While to most men the commerce of the Lower Lakes is a familiar subject, Lake Superior is an unknown region. They are aware, perhaps, that iron, copper, and lumber are shipped from her ports, but beyond that they know very little. They look upon the Lake Superior region as a barren wilderness, with almost an Arctic climate and a sterile soil.

This is brought about by the fact that for many years railroad facilities were denied to the shores of Lake Superior, while they had penetrated beyond her to the Pacific coast. Lake Michigan bounds this region on the east, cutting off east and west lines of travel. In summer vessels coasted along the shore, but when the Great Lakes were closed with ice the only access to the outer world was by stages. This continued until the Chicago and Northwestern Railroad, attracted by the demand for the iron in the Marquette Range, built a railroad to within 13 miles of Lake Superior, and established the port of Escanaba on Lake Michigan, and followed this by the construction of two branches to the Menominee Range, an iron region lying along the Wisconsin line.

In 1877 the Wisconsin Central was built to Ashland. Since that time the Milwaukee and St. Paul, the Milwaukee, Lake Shore and Western, the Duluth, South Shore and Atlantic Railroads have been constructed to the shores of Lake Superior; the latter road working an east and west connection, both by Montreal and by Detroit, between the seaboard and Lake Superior. On the north shore, the Canadian Pacific, or its branches, touch at Sault Ste. Marie, Nepegon, and Port Arthur, and bring to the shores of the lake the grain of Manitoba and the Assiniboine Valley.

Running to the western end of the lake to-day are the Northern Pacific, the St. Paul and Duluth, the Eastern Railway of Minnesota, the Chicago, St. Paul, Minneapolis and Omaha, the Duluth and Winnipeg, the Duluth and Iron Range, and the Duluth, South Shore and Atlantic Railways.

The advent of almost all of these railways has been comparatively recent, and has been brought about by the necessity for moving to the lake ports the immense wealth of iron, copper, lumber, sandstone, and grain that is shipped through Lake Superior, and the return cargoes of coal and merchandise. The divisions of these great railways like the Chicago and Northwestern, and the Milwaukee and St. Paul, which connect with Lake Superior, are the most profitable of their lines, running as high as one hundred and fifty trains a day in order to transact their business. The iron of Lake Superior is distributed along its southern shore, through the counties of Marquette, Menominee, Iron, Dickinson, Baraga, Gogebic, in the State of Michigan, and on the north shore, in St. Louis and Lake counties in Minnesota. The greater part of this ore is shipped by water, and in 1890 amounted to a little more than 9,000,000 tons, a large body of which was of the highest grade of Bessemer ore.

The copper is found in Houghton and Ontonagon counties, in the State of Michigan. In the season of 1891 there was shipped 109,370,000 pounds, the value of which, at 11 cents a pound, would amount to over \$12,000,000. The lumber, which is almost entirely white pine, from the great forests of Michigan, Wisconsin and Minnesota, contributed to the commerce of Lake Superior 366,305,000 feet B. M.

The sandstone, which is of a variety of colors of what is termed brownstone, is scattered along the shore of Lake Superior almost from one end to the other, rising above the waters of the lake and forming quarries easily worked, and near water transportation. The amount produced in 1891 was over 1,000,000 tons.

Of grain, there was transported 3,780,143 barrels of flour and 38,816,570 bushels of wheat, and 1,032,104 bushels of other grain. These articles, transported through Lake Superior, have enabled vessels to bring back cargoes at low rates; 2,507,532 tons of coal, 234,528 barrels of salt, and 417,093 tons of unclassified freight, mostly merchandise.

The total tonnage through the lake was 9,041,213 tons in 1890, and 8,888,759 tons in 1891. In 1881, ten years since, this traffic only amounted to 1,567,741 tons.

The increase in business on Lake Superior has been accompanied by a phenomenal growth in population. The county of Ashland, Wis., has increased in the last ten years from 1,599 souls to 20,063, an increase of 1,186.91 per cent; Bayfield, from 564 souls to 7,390, or an increase of 1,210.28 per cent; Douglass County, from 655 souls to 13,468, or an increase of 1,956.18 per cent; St. Louis County, in which Duluth is situated, from 4,504 souls to 44,862, or an increase of 896.05 per cent; Gogebic County, in Michigan, from nothing to 13,166 souls, and the other counties of the State of Michigan lying along the shores of Lake Superior from 60 to 80 per cent. This large increase in population appears, by the United States census, to be the growth of ten years, whereas it has actually taken place in a much shorter time.

The region lying along the shores of Lake Superior, if we can judge by the experience of territory similarly situated, is destined to sustain a large population, and the business done on the lake, although large, is but small compared with that which will be transacted in the future. The country is covered with a heavy growth of hardwood, among which there is a large amount of white and Norway pine. The soil is good, being composed of the drift carried along by the ancient glaciers. It is capable of raising grain of all sorts except corn, but there is a value added to the crop in this region that is exceptional. The mines, the quarries, and the commerce on the lake give to the farmer a speedy sale and a near-by market that other regions with a more favorable climate do not possess, and this demand will, in all probability, increase. The iron fields of Marquette, Gogebic, and Vermillion have been but partially developed, and larger mines and more numerous ones will be seen in the future. The output of copper increases year by year, and the market for lumber as well.

The farmer finds a sale for his hardwood for fuel or for charcoal, and millions of railroad ties, fence posts, and telegraph poles, can be sold at all the railroads and lake ports, while the cheap transportation on the lakes makes the merchandise and the groceries cheaper than where access can only be had to the commercial centers by rail. The manufacture of iron has yet only been started, but the success of furnaces, notably the "Hinkle Furnace" at Ashland, shows that the ore can be made into iron at a large profit near the mines. The large bodies of hemlock remain untouched, and hard and soft wood lumber have received as yet no notice, and will in time create furniture factories and tanneries that will give employment to thousands of operatives.

Large as the local business of Lake Superior will be in iron, copper, sandstone, etc., it is as a cheap channel for wheat and flour of the west that it will be celebrated within the near future. The western end of Lake Superior extends nearly 1,500 miles into the heart of our country, and is only 1,700 miles from the Pacific; it is immediately tributary to the great wheat belt that extends to the north, south, and west of it.

The following table from W. A. Livingstone, of Detroit, "Twenty-foot Channel," shows the comparative shipments of flour, wheat, and corn from the five principal lake ports for 1890 and 1891:

Ports.	Flour.	Wheat.	Corn.
	<i>Barrels.</i>	<i>Bushels.</i>	<i>Bushels.</i>
Chicago.....	1,757,745	7,030,707	57,529,820
Milwaukee.....	1,613,728	1,389,714	25,335
Duluth and Superior.....	2,496,000	13,874,707	1,453,010
Toledo.....	426,523	3,097,468	9,139,959
Detroit.....	432	2,961,378	372,798
Total.....	6,294,428	28,353,974	68,520,922

This shows that the grain seeks the nearest point of water transportation, and, although it has to be handled twice from rail to lake, and at Buffalo perhaps from lake to rail again, the economy of water transportation more than compensates for this outlay.

I also quote from Mr. Livingstone in regard to the receipts of coal during the seasons of 1889, 1890, and 1891, also the rates per net ton for carrying coal from Buffalo to the several lake points during the season of 1891.

Receipts of coal.

	1890.	1889.
	<i>Net tons.</i>	<i>Net tons.</i>
Chicago	1,266,505	1,329,363
Milwaukee	903,659	907,743
Duluth and Superior	1,681,525	1,209,000
Other Lake Superior ports	495,405	420,197
Other Lake Michigan, Huron, and Erie ports	1,504,837	-----
Other Lake Ontario and St. Lawrence River ports	900,000	-----

Rates for carrying coal.

Date.	Duluth.	Milwaukee.	Chicago.
April 14	\$0.40	\$0.50	\$0.60
May 11	.40	.60	.60
July 18	.40	.50	.60
July 20	.30	.50	.50
August 12	.40	.50	.50
August 28	.30	.50	.50
September 2	.30	.40	.40
September 15	.25	.40	.40
September 26	.25	.50	.50
October 28	.25	.50	.60
October 29	.25	.60	.60
November 10	.10	.60	.60
November 18	.10	.75	.75
November 28	.10	1.00	.75
Average rate	.318	.545	.557

It will be seen from this last table that for a period the freight to Duluth on a ton of coal from Buffalo was only 10 cents. This wonderfully low rate was the return cargo for the boats carrying the 38,000,000 bushels of wheat shipped from the western end of Lake Superior in 1891. Its effect illustrated the blessing of cheap transportation.

Mr. S. A. Thompson, secretary of the Duluth Chamber of Commerce, says in regard to this cheap lake rate:

"Rates on coal from the East are lower than they are to Chicago, owing to circumstances into the details of which I do not care now to go, but because of this fact Duluth dealers have been able to sell coal as far south as Kansas City and to many other points which are much nearer to Chicago than they are to Duluth, and the cost of getting freight from New York to points in Montana, Kansas, Colorado, and the West generally is a great deal less than it would be if the Great Lakes were not where they are. As a further illustration of this fact, take the case of Aberdeen, Watertown, Huron, and other towns in South Dakota, where on the day they gained railroad connection with Lake Superior wheat went up 7 cents a bushel and coal came down \$2 a ton."

The growing commerce of Lake Superior is not merely a local benefit; it adds to the wealth of every lake port. Commerce is a blessing that, while it takes, it gives back twofold. A ton of iron ore transported from a Lake Superior port stimulates many industries; it starts in motion shipyards that have grown to such proportion that they compete in the construction of ocean vessels with the great builders on the Atlantic; it builds up railroads to handle it and cities in which to load it and unload it. In its transformation into iron it has opened mines, employed coke ovens, and created furnaces; worth perhaps \$5 a ton at the mines as merchant steel, it has increased twenty times in value. But this is

not all that it has accomplished. It has created a demand for coal as a return cargo, and has made a demand for food, furniture, clothing, building materials, and luxuries that must be supplied from the great cities of Chicago, Milwaukee, Detroit, Toledo, Cleveland, and Buffalo.

The opening of the commerce of Lake Superior has been of more than ordinary value to the commerce of the country. While the natural commodity transported on the Lower Lakes is grain, Lake Superior has added iron, copper, and sandstone, and will soon control the grain and lumber trade. This diversity of articles gives a constant and growing business, which, although it may suffer in time of depression, yet is more likely to provide a profitable traffic than if the articles transported were but one or two in number. The present season (1891) has illustrated this, for, although there is a partial depression, and the iron trade is not active, a large crop of grain and a foreign demand has made active business for the lakes and lake ports.

That the growth of Lake Superior business is not for the benefit of that region alone may be seen from the number of railroad lines reaching out from Chicago, Milwaukee, and Detroit, and that find, as the Lake Superior region grows, their business in passenger traffic to and from the great cities of the lakes, and their freight business, not only in coarse materials, but also in valuable and highly wrought and manufactured articles increases also. The most profitable railway lines are those that run in competition with the great water routes, and the roads leading to Lake Superior are no exception to the rule.

When we consider the benefits growing out of cheap transportation that inure to all parts of our country, we are not surprised at the efforts to lower the cost.

Increasing the depth and width of the channels, placing light-houses on the rivers between the lakes, and building danger signals and life-saving stations will all aid to do this, and it should be done at once; the outlay is but a small part of the value of one season's business, and any interruption to navigation will cost tenfold the amount that would be necessary to spend to insure against such disaster.

In order to show the benefit to be derived from a 20-foot channel I quote again from Mr. W. A. Livingstone:

"To understand what this improvement means, take the effect on one of the present steamers. This year the draft of water permissible through the St. Marys River has varied from 14 to 14½ feet. Through Lake St. Clair (Grosse Pointe) the draft has varied from 15 to 16 feet. On 14 feet 3 inches draft through the 'Soo' the steamer *Maryland* would carry about 2,875 net tons of cargo; were there a 20-foot passage and were she loaded to 19 feet draft she would carry about 4,550 net tons of cargo. This means that where she now carries cargo at \$1 per ton *free in and out* from Lake Superior on a draft of 14 feet 3 inches, she could then afford to carry cargo at 63 cents per ton in 19 feet draft and still make the same net earnings as she does now at the higher freight. Or, where she now carries for \$1 per ton on the Lower Lakes on a 16-foot draft, she could then carry for 76 cents per ton and make the same earnings."

With all the business done on Lake Superior there have been certain dangers and difficulties in navigating the St. Marys River that have been a tax on the commerce of the country. In 1881, when the new lock was completed, it was expected that vessels could draw 16 feet of water, but during the past season this has been reduced to 14 feet, while the depth of water through the St. Clair Flats Canal has been 16 feet.

It is necessary, in order to pass the St. Marys River, that it be done in the day-time, and therefore all boats must arrange their time so that they reach the lock about noon; this creates an accumulation of boats and delays the lockage. The channel of the river is narrow and crooked, so narrow that the sinking of the boat named the *Susan E. Peck* completely blocked the passage, and a channel had to be dredged around one end of the vessel to open navigation. This obstruction cost at least \$146,236 in delayed navigation. How much more it cost in diverting business from the lakes can not be known.

A difference of a foot in draft takes off about 300 tons from the cargo of a large vessel, or about one-fifth of her cargo. This is sufficient to drive boats away from the Lake Superior business, especially if they can load to a greater depth with less delay. A large vessel must be allowed to travel at her full speed and run no risk of collision or accident. Through the narrow channel of the St. Marys River, with no sufficient light-houses, vessels can not run at more than half speed, and the danger of collision or going aground when loaded boats are passing in the contracted parts of the river are very great. Business can not afford to take such risks, and such evils not only drive away commerce, but make the business that is done pay a higher rate than it should do.

Owing to the lack of lights on the St. Marys River there are ports of Lake Superior where boats arrive in one direction in the night only, and all the business of loading and unloading must be done at that time or the vessel must be delayed for hours.

The amount asked by Gen. Poe for a 20-foot channel, \$3,394,835.96, and the construction of a new lock at the Sault will do much to correct these evils, but the amount asked for will not be appropriated without an effort, in which all the territory around the Great Lakes must join. It must be shown not only to the States bordering on the lakes, but to the West and East and South, that the country is benefited as a whole by what is so essential for the good of the largest part of our Union.

With a view to aid this cause, I have taken the liberty of writing you this letter, knowing that, as a citizen of New York, a State that owes its prominence to its waterways, you will be interested in any project that will cheapen transportation.

Very truly yours,

HORATIO SEYMOUR.

Hon. HENRY W. BENTLEY, *M. C.*,
House of Representatives, Washington, D. C.

APPENDIX C.

FROM THE WEST AND NORTHWEST TO THE SEA.

[A paper by William Pierson Judson, member Am. Soc. C. E.]

The West and Northwest must have the best possible waterway to the sea. The best waterway is that by which the largest practicable lake steamers can go nearest to the sea by deep-water navigation without breaking bulk.

Such a route can be made either through the United States or through Canada, and the great profits of the carrying trade, which is vastly increasing every year, and which exceed the profits of production, will go to that nation which provides the best way.

Each government has expended large sums to improve their natural waterways; the present magnitude of the commerce calling for these improvements being indicated by the 20,000,000 of tons passing the St. Clair Flats Canal yearly.

The United States has met the demand by the construction of the Sault St. Mary Canal at the outlet of Lake Superior, having the finest and largest lock in the world, with a still larger one* now in progress; also, by the excavation of the St. Clair Flats Canal at the outlet of Lake Huron, and by the deepening of the Detroit River at the entrance to Lake Erie.

The latter being completed and the others in progress to pass 20 feet draft.

The logical sequence of the liberal policy, each step of which has been followed by a great growth both in size and number of vessels and in volume of commerce is to also provide a similar 20-foot waterway from Lake Erie to Lake Ontario.

The Western demand for this further step toward their Eastern market was recognized by the last Congress in its call for plans and estimates for a 20-foot ship canal around Niagara Falls.

These estimates,† reprinted here, were made and submitted to Congress, where they were soon followed on December 18, 1889, by the introduction by Congressman Sereno E. Payne (since made chairman of the Committee on Railways and Canals) of a bill, also here reprinted, providing for the work. This bill now awaits Congressional action.

The essential points of the plans and estimates are also embodied on the sheet of maps and profiles which have been made for and which accompany this paper. The map shows some of the main connecting and competing lines of both railways and canals with the Niagara region on a larger scale.

The profiles show the two practicable routes, which are the only ones, of many surveyed, which are worthy of consideration for the large locks (400 by 80 by 21 feet) now desired.

* Eight hundred feet long between gates, 100 feet wide in gates as well as in chamber, and 21 feet deep on miter sills. Report Col. O. M. Poe, Corps of Engineers, An. Rep. Chief Engineers, U. S. A., 1889, p. 2223.

† Report Capt. Carl. F. Palfrey, Corps of Engineers, An. Rep. Chief Engineers U. S. A., 1889, p. 2434.

The eighteen locks estimated for take as their model the 1881 lock of the Sault St. Mary Canal, which, being designed to pass two or more vessels at once, is therefore larger than needed for the Niagara Canal, being 515 feet long, 80 feet wide, and 16 feet deep.

This lock, with its unique methods of operation, has had nine years of uninterrupted use, and all its details have been proven to be so perfect as to leave no room for improvement; a most fitting monument to the skill and wisdom of the late Gen. Godfrey Weitzel, who planned and built it, having as the only comparable precedent his own similar works in 1871 on the Louisville Canal at the Falls of the Ohio.

Of the two routes selected for the Niagara Ship Canal, the longer one of 25 miles, known as the Lockport—Olcott, or Eighteen-Mile Creek route—is preferable, and is estimated to cost \$23,000,000.

It offers remarkable natural advantages for construction as well as for operation, in the "Lockport Gulf," $2\frac{1}{2}$ miles long, in which the descent is made, and also in the Eighteen-Mile Creek gorge, 4 miles long, by which Lake Ontario is reached.

It is to be regretted that the striking features of the routes selected can not be here shown better than by description, by reproducing a series of photographs taken by the writer in 1889, while examining in detail the various lines.

The six millions greater cost of the Wilson route, which is 5 miles shorter, is due in part to its lack of the natural features above referred to, and in part to the necessity for doubling nine of the locks to obtain the service which single locks give on the Olcott line.

□ The United States Government has not been alone in its works for the lake commerce, for meantime the Canadian Government, despite its comparatively small population and limited resources, has spent some \$54,000,000 in constructing and recently in enlarging its canal system, with a view to controlling the western trade.

This system now consists of the 14-foot Welland Canal from Lake Erie to Lake Ontario, around Niagara Falls, and of the St. Lawrence River canals around the various rapids by which the outflow of the lakes descends from Lake Ontario through 246 feet of fall, to tide water at Montreal.

These last-named canals—6 in number, with 26 locks—have an original depth of 9 feet, which is now in process of increase to 14 feet.

From Montreal, now practically a seaport, a $27\frac{1}{2}$ to 30 foot channel for seagoing steamers has been made at a cost of some \$2,500,000, their voyage thence to Liverpool being 315 miles less than from New York.

That portion of the shipment from the upper lakes which passes through the United States and reaches New York, is taken from Lake Erie at Buffalo by 352 miles of the 7-foot Erie Canal to the Hudson; and from Lake Ontario at Oswego by the two branches of the Erie Canal, via Syracuse and via Oneida Lake, the latter route having 184 miles of canal and river and 23 miles of Oneida Lake travel to reach the Hudson.

The deep waters of Lake Ontario are now, however, practically unused for this traffic, the only important western shipments passing through it for American ports being to Ogdensburg, for shipment thence by rail; the only access to Lake Ontario from the West being through the 14-foot Canadian Welland Canal.

This is too small to pass the larger upper-lake steamers, and the discrimination in tolls which is made against vessels bound for American ports is such as to be almost prohibitory. Nominally, the tolls are the same to all vessels, and are 20 cents per ton of cargo and $2\frac{1}{2}$ cents per ton of vessel; but the amount is refunded or rebated to vessels which deliver their cargoes at a Canadian port.

Observation of the map will recall the striking advantage of Canada's position as regards the lakes, and will suggest that the United States can not afford to omit any reasonable work which will offset this natural advantage.

The works best calculated to effect this, and which also promise the greatest value, aside from any competitive aspect of the case, are the Niagara Ship Canal the projected lakes and gulf water way to the south; the latter running from Chicago and carrying the waters of Lake Michigan along the line of this original natural outlet down the valley of the Illinois River to the Mississippi and the Gulf.

These two projects, which are both strongly favored, should not be considered as rivals, since many of the reasons for one are equally applicable for the other,

and their combined effect, added to the present great growth of lake shipping, would supply ample business for both.

The latter project is most ably presented by Mr. L. E. Cooley, civil engineer, of Chicago, in his publication of 1888, containing a great amount of valuable data, and also in a subsequent discussion of it published in 1889 under his direction.

Already Canada is taking further steps to improve the natural advantages of her position by completing a separate canal system. Not content with using the United States Sault Saint Mary Canal, Canada, has now in progress (1890) a similar canal on the opposite side of the Rapids, less than a mile from ours.

This great work is undertaken despite the fact that the United States canal is free of tolls to Canadian vessels as well as to our own.

The contracts for the entire work are now in force, providing for an 18-foot canal, with lock 600 by 85 feet, operated by hydraulic machinery. The contracts call for completed work to be ready for use in May, 1892.*

When the Canadians are thus made independent of our "Soo" Canal, what terms may our vessels expect at the Welland?

On the other hand, it has been asserted that all tolls will then be removed from the Welland. The policy as regards United States vessels may vary with every change of ministry. No terminal arrangements can be made with any assurance of permanence, so long as we must depend upon a Canadian canal.

Surveys and estimates have also been made for an almost direct line of water way from the Sault St. Marie and from Lake Michigan to Montreal through Lake Nipissing and the Ottawa River, the latter having already canal navigation for† 9 feet draft to Ottawa and for 5 feet draft 145 miles beyond, though at present the 5-foot portion is not kept in repair.

A glance at the map accompanying will show that this line, lying far within Canadian territory, would cut out Lakes Huron, St. Clair, Erie, and Ontario, as well as the St. Lawrence Rapids, thus saving 270 miles. The distance by it is practically the same from Lake Superior to Montreal as by the present lake route from Lake Superior to Buffalo.

Its construction, even for a 9-foot barge route, is not probable, but the possibility exists, for the route offers great advantages. The summit level, 77 feet above Lake Huron, has ample water supply, and in the total length of 430 miles, only 29 miles is canal, the rest being river and lake.

The object in here stating, at such length, the present and prospective features of the Canadian routes, is to show that New York City, as well as the West and Northwest, is directly interested in the effects of the proposed works.

The result of Canada's liberal policy is already shown in the gradual increase in Montreal's share of the total exports, while New York's share as steadily decreases.

The reverse has recently been stated to be the case, but these comparative percentages are carefully computed from official records of the several chambers of commerce or produce exchanges, and show a gradual change, in ten years past, of 4 per cent in grain and 5 per cent in flour, in Montreal's favor.

This gain has been made despite of Montreal's having "only six months of the year of navigation," as stated by one of her most noted engineers. The actual average dates‡ of first arrivals and last departures for many years past have been May 2 and November 23.

A stronger and fairer showing would have been made if there could have been included the Canadian shipments brought in bond via the Grand Trunk Railway to Portland, Me., and exported thence when Montreal's harbor was sealed by ice, Portland being practically Montreal's winter port.

*Annual Report Canadian Minister Railways and Canals, Ottawa, 1890, p. 111.

†Annual Report Canadian Minister Railways and Canals, Ottawa, 1890, p. 103.

‡Annual Report Harbor Commissioners of Montreal, 1887.

36 SHIP CANAL FROM THE GREAT LAKES TO HUDSON RIVER.

Comparison of exports of grain and flour from New York City and from Montreal, showing the percentage of the sum total which each city exports.

PERCENTAGE OF SUM TOTAL.

[Grain, bushels; flour, barrels.]

Years.	Grain.		Flour.	
	New York.	Montreal.	New York.	Montreal.
1880.....	84	16	85	15
1881.....	83 $\frac{1}{2}$	16 $\frac{1}{2}$	87 $\frac{3}{4}$	12 $\frac{1}{4}$
1882.....	82 $\frac{1}{2}$	17 $\frac{1}{2}$	85 $\frac{1}{2}$	14 $\frac{1}{2}$
1883.....	82	18	85	15
1884.....	83	17	82 $\frac{1}{4}$	17 $\frac{3}{4}$
1885.....	82 $\frac{1}{4}$	17 $\frac{1}{2}$	84 $\frac{1}{2}$	15 $\frac{1}{2}$
1886.....	77	23	82 $\frac{1}{2}$	17 $\frac{1}{2}$
1887.....	80	20	81 $\frac{3}{4}$	18 $\frac{1}{4}$
1888.....	82	18	82 $\frac{1}{2}$	17 $\frac{1}{2}$
1889.....	80	20	79 $\frac{3}{4}$	20 $\frac{1}{4}$

A further similar comparison of the respective percentages of total exports of New York City and of the other North Atlantic ports, including Montreal, shows even more clearly that no effort can be spared if New York is to keep her present supremacy.

The percentages only are given, as the fluctuations of yearly quantities, with the varying supply and demand, are less readily compared.

Comparison of grain and flour exports from New York, Boston, Philadelphia, Baltimore, and Montreal, showing the percentage of their sum total which each city exports.

PERCENTAGE OF SUM TOTAL OF GRAIN.

[Bushels.]

	New York.	Boston.	Philadelphia.	Baltimore.	Montreal.
1880.....	49 $\frac{3}{4}$	6 $\frac{1}{2}$	13	21	9 $\frac{3}{4}$
1881.....	50 $\frac{1}{2}$	7 $\frac{1}{4}$	10 $\frac{1}{2}$	21 $\frac{3}{4}$	9 $\frac{3}{4}$
1882.....	55 $\frac{1}{4}$	5 $\frac{1}{2}$	7 $\frac{1}{4}$	20 $\frac{3}{4}$	11 $\frac{1}{4}$
1883.....	49 $\frac{1}{4}$	6 $\frac{1}{4}$	9 $\frac{1}{2}$	24	11
1884.....	52	5 $\frac{1}{2}$	8 $\frac{1}{4}$	23 $\frac{1}{2}$	10 $\frac{1}{2}$
1885.....	53	6 $\frac{1}{2}$	10	19	11 $\frac{1}{2}$
1886.....	49 $\frac{1}{2}$	6 $\frac{1}{2}$	7 $\frac{1}{2}$	22 $\frac{1}{4}$	14 $\frac{3}{4}$
1887.....	52 $\frac{3}{4}$	6 $\frac{1}{2}$	10 $\frac{1}{4}$	17	13 $\frac{1}{2}$
1888.....	56	9 $\frac{1}{2}$	4	17 $\frac{1}{2}$	13
1889.....	49	9	5 $\frac{1}{2}$	24 $\frac{1}{2}$	11 $\frac{1}{2}$

PERCENTAGE OF SUM TOTAL OF FLOUR.

[Barrels.]

	New York.	Boston.	Philadelphia.	Baltimore.	Montreal.
1880.....	62 $\frac{1}{4}$	16	3 $\frac{1}{4}$	7	11
1881.....	66 $\frac{1}{2}$	15 $\frac{1}{2}$	2 $\frac{1}{2}$	6	9 $\frac{1}{2}$
1882.....	62 $\frac{1}{2}$	18 $\frac{1}{4}$	2 $\frac{1}{2}$	6 $\frac{1}{4}$	10 $\frac{1}{2}$
1883.....	57	22 $\frac{3}{4}$	4 $\frac{3}{4}$	5 $\frac{1}{2}$	10
1884.....	45	36 $\frac{1}{2}$	3 $\frac{3}{4}$	5	9 $\frac{3}{4}$
1885.....	47 $\frac{1}{4}$	21 $\frac{1}{4}$	8 $\frac{3}{4}$	14	8 $\frac{3}{4}$
1886.....	41 $\frac{1}{2}$	24 $\frac{1}{4}$	5	20	8 $\frac{3}{4}$
1887.....	38 $\frac{1}{2}$	20	4 $\frac{3}{4}$	28 $\frac{1}{2}$	8 $\frac{1}{2}$
1888.....	40 $\frac{1}{4}$	17 $\frac{1}{2}$	7 $\frac{1}{4}$	26 $\frac{1}{2}$	8 $\frac{1}{4}$
1889.....	40 $\frac{1}{4}$	15 $\frac{1}{2}$	6 $\frac{1}{2}$	27 $\frac{1}{4}$	10 $\frac{1}{4}$

It has been objected that the proposed 20-foot Niagara Ship Canal would pass the great upper lake steamers to Lake Ontario, only to see their cargoes go down the St. Lawrence to Montreal, instead of through the Oswego and Erie Canal to New York.

As has already been stated, the navigable depth of the St. Lawrence River and canals to Montreal is now limited to 9 feet, with an ultimate proposed depth of 14 feet, to which portions have been deepened. A 20-foot Canadian system would be impracticable, having been estimated to cost \$70,000,000 additional; while deep-water navigation, among its Thousand Islands and its thousands of submerged rocks, would require most skillful pilotage in clearest weather.

These dangers to navigation on the St. Lawrence increase vastly in number for any additional drought.

Twenty-foot vessels which might pass our canal, and desire to transfer at Kingston to barges for Montreal, would be prevented by the same rebate system which now operates so effectively against us on the Welland Canal.

So that there are both physical and financial sureties that New York, as well as the West and Northwest, could lose nothing, but must gain much, by the proposed Niagara Ship Canal.

It is now fortunate that its construction was not begun in 1867, upon the inefficient scale then proposed, which is practically that of the present Welland Canal, which was outgrown before it was finished. The canal, when built upon the present project, will pass the largest steamers which can navigate the lakes.

These steamers will be able to place their cargoes at Oswego twenty hours after passing Buffalo. This assumes a much quicker passage of the proposed canal than is possible or is permitted in the Welland Canal, whose passage is not allowed to be made in less than twenty-two hours. This appears to be fixed on a basis of 5 miles per hour speed and forty minutes per lock.

The shorter time here estimated for is based upon the improved methods proposed. The lockages will be fewer and each will be quicker by reason of the hydraulic appliances and the methods of filling and emptying which have proved so perfect at the Sault St. Mary lock. This at the Sault requires the movement of five times the water moved in a Welland lockage, but it is effected quietly in an average of twelve minutes for each filling or emptying; while an additional twenty-eight minutes is required to haul in and to place the two to four vessels which fill the lock to close and open the gates and to haul the vessels out—in all, an average of forty minutes per lockage.

The writer is indebted to Gen. O. M. Poe, U. S. Engineers, who has charge of the canal and is building the new lock, for these details of operation.

In the Niagara locks, one-fourth smaller, a single steamer will readily pass in thirty minutes.

The earth slopes being paved, speed can be made on the two long levels of 6 and 12 miles each, which form three-fourths of the total length.

The Niagara Canal can be thus passed in eleven hours, and the run of 110 miles to Oswego can be made in eight hours. At Oswego, the cargoes transferred to canal-boats are then 145 miles nearer to New York than at Buffalo, and have 168 miles less of canal to traverse to reach the Hudson.

The average of many trips to the Hudson of steam canal-boats with consort, shows six days from Buffalo against four days from Oswego.

This shows a clear saving of one and one-fifth days, or 20 per cent of the time of the present trip from Buffalo.

Having two independent and competing water routes available, shippers would also save the present excessive elevator charges at Buffalo.

It is no part of the present Niagara Ship Canal project to provide for a canal of similar size through New York State to tide water, as has been estimated for at various times, by which lake steamers should carry their cargoes to New York or to Europe.

Such projects call for impossible expenditures, and ignore the fact that different waters demand different types of vessel. The lakes, the canal and river, and the ocean, each have their distinctive style and equipment.

Such a water way, if built, would not be so used. Steamers fitted to safely weather lake storms would not carry their costly and idle equipment through 360 miles of canal and river to New York. Barges of one-tenth the cost would do the work better and cheaper, while much of the expensive construction needed on the ocean would be superfluous on the lakes.

The present 7-foot canal will be fully equal to vastly greater business than it has ever done, when the double length locks—220 feet long by 19 feet wide—now in construction on the Oswego and Erie canals, are completed, and when the

present prism is cleared of accumulations and weeds and its slopes paved, as has been repeatedly urged by the State engineer. Or if enlarged to 9 feet depth at the locks, with 10 feet water way, the present canal would pass the modern McDougal steel barges or other canal boats of ample size to do most efficient and profitable service.

For such enlargement of the Oswego, Oneida Lake and Erie Canal moderate estimates of cost have been made and ample local water supply found.*

The military advantage to the United States of being able to bring gunboats through from New York Harbor is obvious. Gunboats of 12 feet draft could readily be lightened of their armament and stores to pass the 9-foot canal and from it, through the Niagara ship canal, the chain of lakes could be commanded, with the effect of saving, in case of merely threatened hostilities, much greater sums than the canal would cost.

The only gunboats which can now reach the lakes are those which may come up the St. Lawrence and the Welland Canals, by the permission of Canada, who thus has unquestioned command of all our utterly defenseless lake commerce and cities.

Simply regarded as a military work, the Niagara ship canal would be an economical substitute for otherwise needed defenses of the northern frontier. But unlike most military works, it would be still more valuable for peaceful commerce

MARCH 1, 1890.

APPENDIX D.

REPORT OF CAPT. CARL F. PALFREY, CORPS OF ENGINEERS, U. S. A.

[Reprinted from the Appendix of the Annual Report of the Chief of Engineers for 1889, page 2434.]

WATER WAY AROUND NIAGARA FALLS OF CAPACITY AND FACILITIES SUFFICIENT TO FLOAT MERCHANT SHIPS AND SHIPS OF WAR OF MODERN BUILD, DRAWING 20 FEET OF WATER, SAID WATER WAY TO COMMENCE IN A NAVIGABLE PART OF NIAGARA RIVER, IN NIAGARA COUNTY, NEW YORK, AT OR NEAR TONAWANDA, AND TO END IN THE NAVIGABLE WATERS OF SAID RIVER BELOW SAID FALLS, OR IN NAVIGABLE WATERS CONNECTED THEREWITH.

UNITED STATES ENGINEER OFFICE, *August 19, 1889.*

GENERAL: I have the honor to report as follows upon revision of surveys and estimates for water way around Niagara Falls, New York, heretofore made by Col. C. E. Blunt, Corps of Engineers.

The river and harbor act of August 11, 1888, under which this revision is made, contains the following paragraph:

"Water way around Niagara Falls of capacity and facilities sufficient to float merchant ships and ships of war of modern build, drawing 20 feet of water, said water way to commence in a navigable part of Niagara River, in Niagara County, at or near Tonawanda, and to end in the navigable waters of said river below said falls, or in navigable waters connected therewith. For the purposes hereof the Secretary of War, in his discretion, may take into consideration, and revise the surveys and estimates of such a water way heretofore made by Brevet-Colonel C. E. Blunt, of the United States Corps of Engineers, in compliance with a joint resolution of the Congress approved March twenty-second, eighteen hundred and sixty-seven."

The canal for which Col. Blunt made surveys and estimates was of 14 feet depth, with lock-chambers 275 by 46 feet. His surveys covered six lines, some of which presented great difficulty in the ascent of the Niagara Terrace even with these dimensions, and only one, the longest, offered any marked natural advantage. None of these is impossible with the dimensions now required; routes No. 1, 2, 2a, 3, and 5a do not come within the description of the act above cited, the

* Report of the late Mr. James S. Lawrence, C. E., to Maj. (now Col.) John M. Wilson, Corps of Engineers, An. Rep. Ch. Engr. U. S. A., 1875, part 2, p. 566. Also report Mr. C. A. Olmstead, C. E., to canal commissioners, 1871.

last being without Niagara County, the others opening upon Niagara River 9 miles below the present termination of a 20-foot depth. No estimates upon these are therefore presented. Examination of the ground and application of the present project to the profiles of these routes have shown me that they offer no advantage either in expense of construction or efficiency of service. Route No. 4 also opens upon the river at a point below the present termination of 20-foot depth, but near enough to it to come reasonably within the terms of the act. Of all the routes surveyed by Col. Blunt it is the only one remaining for comparison with route No. 5. Projects and estimates upon these two routes are therefore presented.

The dimensions of canals and locks adopted and used in all the estimates are as follows:

	Depth.
Width of canal at bottom.....	100
Depth of canal.....	20½
Width of canal at water-surface in rock.....	100
Width of canal at water-surface in earth.....	150
Length of lock-chamber.....	400
Width of lock-chamber.....	80
Width of gates.....	60
Depth over miter-sill.....	21
Lift, in general.....	18

I assume that the lock at Sault St. Marie, Mich., completed in 1881, as the model of locks and their works, and also assume that the canal will be used by vessels either self-propelling or towed by tugs. All slopes are therefore paved.

The sections herewith presented show the form of cutting upon which estimates are based. I have arranged upon both routes for the ascent of the Niagara Terrace by a system of locks 400 feet long and 80 feet wide, and short levels or basins 500 feet long and 100 feet wide. With this system, for draft of 14 feet, the lock can be filled from its own basin and the lock next above without danger from grounding; for draft of 16 feet the lock can be filled from its own basin and the basin next above without danger of grounding in either; for draft of 17 feet, from its own basin and the two above without danger of grounding in any.

Upon route No. 4 this gives fairly efficient service with single locks, but for full efficiency double locks are still needed upon this route. Upon route No. 5, by virtue of a level of 2,100 feet midway of the ascent, efficient service can be had from single locks.

At the lake end of each route is a shallow natural harbor, with harbor improvements on a scale utterly inadequate to the needs of this water way.

At each I estimate for a channel 200 feet wide to the deep water of the lake, protected by piers of cribwork filled with stone. At each harbor the inner 500 feet of this channel is in water fully protected from storm, being part of the natural harbor.

At each lake front the bottom of the lake is of a soft red stone, which can be worked by the dredge. A similar formation at Oak Orchard has been removed by dredging to a depth of 10 feet at extreme low water (12 feet at ordinary low water), at a contract price of \$1.10 per cubic yard.

The requirements of bridging are not materially changed since the date of Col. Blunt's report. The surface width of the canal is unchanged, and I have held, where there is any change, to lower levels than he. In the wide range of estimate open in this matter I have held to his.

ROUTE NO. 4.—WILSON OR TWELVE MILE CREEK LINE.

Length, 18.35 miles; 18 lifts; estimated cost with single locks, \$24,201,550; estimated cost with double locks, \$29,347,900.

"This line commences at the mouth of Twelve Mile Creek, and following its course about half a mile the line reaches the table-land, and thence in a southerly course for 9½ miles over gently rising ground, very favorable for the location of a canal, it reaches the foot of the mountain ridge. At this point the ascent commences, and a second table-land is passed. Continuing a southerly course, the line crosses the Pekin road, and half a mile farther the summit is reached, the line descending into the valley of Cayuga Creek to the Lockport and Niagara Falls Railroad. From thence it takes a southwest course along the valley of the creek to Bergholtz; thence nearly on the same course to its

termination at a point on the Niagara River 2 miles east of Cayuga Creek, the whole distance being 18.35 miles."

Beginning at the mouth of Twelve Mile Creek, this line rises with nine lifts and with levels ranging from 2,000 to 9,750 feet, to the base of the cliff. This portion of the line is entirely in earth-cutting. The natural surface of the ground is fairly uniform. It is highly cultivated in wheat and fruit. The ascent of the cliff is made by nine lifts of $17\frac{1}{2}$ feet each, with levels uniformly 500 feet long between, thus reaching the summit level, fed from the Niagara River. The cliff is abrupt, with a thin cover of earth over most of its face. The crest is at about 60 feet above water level. There is a secondary terrace about two lifts below the summit level. It could be utilized for a level only by giving up the intermediate basins through the whole system and incurring the expense of double locks, and even then, leaving three-quarters of the ascent unbroken, it would add little to efficiency. On the summit level this line is very expensive by the depth of the rock cut. The system of locks and basins gives on this line a moderate efficiency, with single locks, for draft of 14 feet. For the deeper drafts, although passing on the incline is possible, with careful management, at several points, the service of the upper locks must often be sacrificed to the need of replenishing the lower. For full efficiency double locks are necessary, which adds largely to the expense of the line. The locks to be doubled are all in rock-cutting, where masonry is reduced to the minimum, and the expense of double locks in these circumstances is nearly double that of single ones.

In the Niagara River this line requires a dredged channel about 16,700 feet long. This is estimated as in sand and gravel, as the rock-beds are uniform, and no rock appears in the bed of the river for many miles.

One railroad bridge is required on this line not included in Col. Blunt's estimate. The Rome, Watertown and Ogdensburg Railroad crosses the line at a level little above the water-surface.

The lake harbor estimated for includes a moderate area of sheltered mooring. Should commercial needs require it, a basin can be obtained by dredging in Wilson Harbor.

ROUTE NO. 5.—OLCOTT OR EIGHTEEN-MILE CREEK ROUTE.

Length, 25.28 miles; lifts, 18; estimated cost, \$23,617,900.

"The line of survey begins at the head of Olcott Harbor, on Lake Ontario, 18 miles east from the mouth of the Niagara River, following the channel of Eighteen-Mile Creek (the course of which is nearly south and very direct) for $3\frac{1}{2}$ miles; ascending gradually, reaches in $1\frac{1}{2}$ miles the table-land, over which it passes for $5\frac{1}{2}$ miles nearly south to the foot of the mountain ridge, when it enters another valley or gulf $2\frac{1}{2}$ miles in length, varying in width from 80 to 300 feet on the bottom, which is gradually ascending with steep banks on both sides; this is followed to its head, where the mountain ridge is encountered. From the head of the gulf the line follows a slight depression in the ridge, leading in a tolerably direct course west of south 4 miles to the east end of Beach Ridge; thence by an almost direct line nearly southwest to the Niagara River, opposite the north end of Tonawanda Island, about seven-eighths of a mile north of the mouth of Tonawanda Creek, making the whole distance 25 miles 22.34 chains."

Beginning at the mouth of Eighteen-Mile Creek this line rises by seven lifts to the entrance of a remarkable gorge in the face of the cliff near Lockport, locally known as "The Gulf."

In this part of the line there is a little rock cutting in the bed of the creek and at leaving it; thereafter it is all in earth cutting. It has the advantage of one level nearly 6 miles long, in which good speed can be maintained. The country traversed after leaving the creek is in part cultivated in wheat; in part, hay land. "The Gulf" offers a comparatively easy ascent of the cliff by four lifts with levels or basins 500 feet long; then one lift with basin 800 feet long; then one lift and level 2,100 feet long; then five lifts having intermediate basins 500 feet long, to the summit level. On the summit level this line is free from rock cutting after less than 3 miles.

On this line efficient service can be had from single locks. The level midway of the ascent is an important aid. For 14-foot draft one lock full of water can be taken from the 800-foot level and two from the 2,100-foot level for the service of the lower locks before drawing from the summit level through the upper locks becomes necessary. For 16 and 17 foot drafts one lock full can be so drawn from the 2,100-foot level. The terrain of the gorge makes it easy to provide a storage basin of very moderate depth, into which water may be allowed to fall from the summit level and, thence drawn off without inconvenient head to the 2,100-foot level.

This would leave the upper set of five locks entirely free from the service of replenishing the lower set, and would add greatly to the efficiency of the system.

In the Niagara River this line requires a dredged channel about 5,000 feet long. The 20-foot depth appears again farther down the river. The bar between White's Island and the mainland is therefore estimated as sand and gravel.

The bridge of the Rome, Watertown and Ogdensburg Railroad, not built at the time of Colonel Blunt's report, crosses this line where it occupies the bed of Eighteen-Mile Creek at a level far above the water-surface. One-half the cost of a bridge is estimated for changing this to a swing-bridge.

The lake harbor works estimated for include a moderate area of sheltered mooring. Should commercial needs require it, a basin can be obtained by dredging in Olcott Harbor.

Detailed estimates upon the two routes are appended.

Profiles and sections are herewith presented.

I have the honor to be, very respectfully, your obedient servant,

CARL F. PALFREY,
Captain of Engineers.

The CHIEF OF ENGINEERS, U. S. ARMY,
Washington, D. C.

APPENDIX E.

LETTER FROM VERPLANCK COLVIN, NEW YORK STATE SUPERINTENDENT OF ADIRONDACK SURVEY.

ALBANY, December 28, 1891.

MY DEAR SIR: I have your letter of the 26th instant relating to proposed ship canal to connect the Great Lakes with the Hudson River. Two routes may be mentioned.

(1) The route via the Mohawk Valley, Oswego, Lake Ontario, and Niagara Canal to Lake Erie.

(2) The route via the Upper Hudson Valley, Lake Champlain, and canal along the Canadian frontier to the St. Lawrence River; thence via Lake Ontario and the Niagara Canal to Lake Erie.

The Valley of Black River, near or along the Black River Canal, is inadmissible as a route owing to the great elevation of the summit, which is 1,120 feet above tide; rendering over 100 locks necessary. There would also be much expensive construction, while floods on Black River would make it an undersirable channel.

Considering the two routes first mentioned, we have—

(1) *The Champlain route.*—This line would have the least engineering difficulties, but would, probably, have to traverse a portion of Canada to take advantage of the best location. For a national United States canal this difficulty might prove insuperable.

This route has no disadvantages except the political or national impediment, which survey may prove not to exist. The maximum elevation on the Champlain route is the height of Lake Erie; the only divide crossed is on the Upper Hudson, 150 feet above tide. The elevations are as follows:

	Feet.
Hudson Valley summit	150
Fall to Lake Champlain	54
Rise to Lake Ontario	151
Rise to Lake Erie	326

Total rise and fall 681

Total number of locks, 45.

Distances by Champlain route would be—

	Miles.
Canal, Troy to Lake Champlain	65
Navigation to Lake Champlain	124
Canal to the St. Lawrence	90
Navigation, St. Lawrence River	92
Navigation, Lake Ontario	150
Canal at Niagara River	25

Total distance 546

42 SHIP CANAL FROM THE GREAT LAKES TO HUDSON RIVER.

Canal to be constructed	180
River and lake navigation	366
Total as above	546

Time by steamer from Troy to Lake Erie, two and one-half to three days.

This is a magnificent route with abundance of water; hardly any elevations to overcome; no cities to interfere by large bridges; and the canal would be cheap and easy of construction.

(2) The improved "Erie" route, or Mohawk Valley Canal, from Troy via Oswego and Lake Ontario to Lake Erie. On this line the elevations are as follows:

	Feet.
Mohawk Valley summit	427
Fall to Lake Ontario	180
Rise to Lake Erie	326

Total rise and fall

933

Total number of locks, 62.

Distances by the Mohawk Valley route are—

	Miles.
Canal, Troy to Oswego	195
Navigation, Lake Ontario	130
Niagara Canal	25

Total distance, Oswego route

350

Total canal to be constructed

220

This route has seventeen more locks than the Champlain route, which increases time and expense, though the distance being less, decreases the time consumed by each voyage.

The time by this route, by steamer from Troy to Lake Erie, about two days for large steamers or men of war.

This route will have a sufficient water supply, for suitable reservoirs can be arranged to furnish all the water needed. It is a perfectly feasible route, located entirely in the State of New York.

COST OF SURVEYS.

I would suggest a reconnaissance of the northern route, via Lake Champlain and the St. Lawrence River, to ascertain whether the canal can not be kept within the United States, as this route would be much the cheapest in construction, 40 miles less of canal being required, with minimum lockage, and nearly as quick a route as the shorter lines, yet costing at least \$4,000,000 less than any other route.

For this survey, determination of possible location in United States, I would suggest an appropriation of \$17,000.

If the 195-mile line along the Mohawk Valley, from Troy to Oswego, should be accurately surveyed to determine the best possible location for ship canal—independently of the Erie Canal and avoiding passage through cities and large towns, whose street bridges would be a hindrance to traffic—then a great deal of careful surveying would have to be done.

A trial line could be run for about \$30,000 to \$35,000, or, if the 25 miles around Niagara Falls be included, then from \$35,000 to \$40,000. Based upon the trial lines, some secondary lines would be needed to better or improve the first line in places.

The final survey for estimates of quantities and cost of construction would not probably follow precisely any of the preliminary lines, but would be a line resultant from the prior investigations.

The final survey for estimates along the located line would cost about ..	\$60,000
To which adding cost of preliminary surveys	40,000
And reconnaissance surveys of the Champlain route	17,000

Total cost of all surveys

117,000

This would not include cost of engineering supervision during construction, but would give the location of the several ship-canal routes available through the State of New York.

The time required for these surveys would be between one and two years. The work would have to be divided into four or five divisions, under one general direction, which, with its share of the general expense of supervision, costing about \$1,000 per month.

Five divisions, at \$1,000 per month for twelve months	\$60, 000
Four divisions, next year, twelve months	48, 000
Allowance for special work	9, 000
Total, as before.....	117, 000

A poorer quality of work might be had for less money, but the determination of a final route with complete estimates for quantities could not be made at less cost.

Yours very truly,

VERPLANCK COLVIN.

Hon. H. W. BENTLEY,
House of Representatives, Washington, D. C.

APPENDIX F.

THE RADICAL ENLARGEMENT OF THE ARTIFICIAL WATER WAY BETWEEN THE LAKES AND THE HUDSON RIVER.

[A paper by E. Sweet, M. Am. Soc. C. E., read at the Annual Convention, June 10, 1884.]

WITH DISCUSSION.

The Erie Canal, conceived by the genius and achieved by the energy of De Witt Clinton, was, during the second quarter of this century, the most potent influence of American progress and civilization. It developed the Northwest by giving an outlet to the commerce of the Great Lakes, and it made New York the Empire State, and New York City the imperial mart of the New World.

For twenty years after its size was increased to its present capacity it also continued to play a prominent part in our internal commerce. Contemporaneous, however, with its enlargement began that wonderful development of the railway system of transportation which has since absorbed the skill and resources of our profession, the best executive and administrative talent, and much of the available capital of our country, to the exclusion of water routes, so that our neglected canal, unchanged for thirty years except as to the gradual deterioration of its structure, with unimproved equipment and modes of operation, despite the liberal policy of the State, is gradually losing its capacity for usefulness and its influence on the problem of transportation. Thirty years ago the Erie Canal carried nine-tenths of the freight traffic between Buffalo and New York, while now it carries less than one-fifth of it. In view of these facts thoughtful men begin to ask themselves the question what must its future be.

For some years friends of this canal have urged minor improvements which, if promptly adopted, would have measurably increased its capacity and economy and prolonged its ascendancy, but its inadequacy to meet the present and prospective wants of the Northwestern commerce seeking the East and the sea have now become so manifest and so great as to demand a far more radical and extensive improvement.

It is clear to me that the canal, to become the permanent highway of this commerce, must have sufficient capacity to float the largest vessels navigating the Great Lakes from Lake Erie to the deep waters of the Hudson, and in view of the fact that the draft of the lake vessels is now limited by the dimensions of St. Mary and St. Clair Canals, which may hereafter be enlarged, the locks of our canal should be large enough to provide for the probable increase in the size of lake vessels.

The canal should be at least 18 feet deep, and 100 feet wide at bottom, and its locks should be 450 feet long and 60 feet wide. The successful occupation of the

canal thus enlarged requires that it should receive its water from the lake and discharge it into the Hudson on account of the insufficiency of water tributary to its route to supply it.

This and various topographical and economic considerations render a radical change in parts of the route and profile of the old canal essential.

These changes are entirely practicable and involve no very serious difficulties.

The essential change in profile consists in extending the Rome level westward to Lock 57, between Newark and Lyons, in Wayne County, throwing out the locks 47 to 56, inclusive. This change in profile can be effected by swinging the route to the southward, near Newark, crossing the Canandaigua outlet and occupying ground of the proper elevation along the south side of Clyde River, and crossing the Seneca River at the narrowest part of its valley, which is near its junction with the outlet of Cayuga Lake, from whence it should gradually approach the present route of the canal, and connect with or cross it just east of the city of Syracuse.

The only serious difficulty encountered on this route is the crossing of the Seneca River, where the water surface of the canal must be nearly 50 feet above that of the river, and for nearly 2 miles over 40 feet above the surface upon which its embankment must be built.

This change of route, to secure a continuously descending profile from the lake to the Hudson River, is the only deviation from the route of the old canal that is absolutely necessary, but I think the construction would be simplified and cheapened, and the best possible waterway secured, by the adoption of an entirely new route from Syracuse eastward.

Lower ground can be obtained for the Rome level, except at the summit itself, by moving the line northward, thus, by lowering the elevation of this level throughout, lessening the difficulties of the Seneca River crossing, and from a point a little west of Utica eastward to the Hudson, the Mohawk River should be canalized by the erection of locks and movable dams at suitable points in its course, and the deepening and rectification of its channel.

From the mouth of the Mohawk, at Troy, to the deep water of the Hudson River, below Coxsackie, that river must be improved by narrowing and deepening its channel, or a canal must be constructed along its shore. The former method of construction affords, in my judgment, the simplest and most useful means of securing the desired result.

The plan may, therefore, be summarized as the widening, deepening, and necessary rectification of the worst curvatures of the present canal, from Buffalo to Newark, about 130 miles, the construction of a new canal from Newark to Utica, about 115 miles, the canalization of the Mohawk River from Utica to Troy, about 100 miles, and the improvement of the Hudson River from Troy to Four-Mile Point, in Coxsackie, a distance of about 30 miles.

The elevation of the western level of the canal being governed by the surface of Lake Erie, must secure the required depth wholly by deepening, while the profiles of the levels from Lockport east can be adjusted to meet the economical requirements that will be disclosed by detailed surveys.

The first level from Buffalo to Lockport will be 32 miles long. Descending from this level at Lockport, by two locks, each of about 25 feet lift, the second level of the canal will be reached. This level, 64 miles in length, will extend to Brighton, where, descending by two locks of about 24 feet lift, we reach the third level of the canal, extending from Brighton to Macedon, 20 miles, there descending by a lock of about 20 feet lift, we reach the fourth level extending from Macedon to Newark, 12 miles, where, by a lock of about 20 feet lift, is reached the level of the proposed new canal, to extend from Newark to Utica, about 115 miles, which will be the fifth and longest level of the new canal. From that point the Mohawk River (except at Little Falls and Cohoes, where combined locks will be required) can best be canalized through locks of 10 or 12 feet lift, making pools having an average length of about 5 miles each.

The construction of this great artificial river, more than 300 miles long, involving as it does so vast a structure, which must be built in a manner to attain absolute security and permanence, the acquisition of large areas of land, the maintenance of the drainage of the country it traverses, and the erection of swing bridges at all necessary crossings, is a vast enterprise, both in engineering and in finance. It is a problem, however, that cannot be accurately stated even, either in a financial or in an engineering sense, until detailed surveys furnish data for detailed plans and estimates, and until a careful compilation of industrial statistics furnish the means of judging the volume of tonnage it will probably command. Judged by the cost of similar undertakings and what is already

known of this route, its cost may be roughly assumed at one hundred and twenty-five to one hundred and fifty millions of dollars, and from the commercial statistics at hand its probable tonnage may be placed at twenty to twenty-five millions tons per annum.

The first requisite to the possible inauguration of this enterprise is, of course, a careful system of surveys that will determine its probable cost, and whether it be undertaken by private enterprise, as most of the great artificial transportation lines of the world have been, by the aid of the National Government, or by the State itself, every consideration of State interest and State pride requires that it should remain forever under the sovereign control of the Empire State, and she should, without delay, cause the necessary surveys and estimates to be made for determining all the elements of this problem.

Let us consider the importance of this water way. For the past four years the average grain rates from Chicago to New York during the season of navigation have been by rail 14.9 cents, by lake to Buffalo and thence by rail to New York, 12.1 cents, and by lake and canal to New York, 9.9 cents per bushel.

The large propellers of the lakes have, however, during this period, found a profit in carrying grain from Chicago to Buffalo at 2 cents a bushel, while the cost by canal from Buffalo to New York, though the distance is only half as great, without tolls, but including the cost of transfer, has, at the same time, been more than 4 cents per bushel, more than twice the cost, and more than twice the time in transit for one-half the distance.

In the enlarged canal, making due allowance for reduced speed in the narrow channel and for lock detentions, the propeller would make the trip from Buffalo to New York in as short a time as she requires between Chicago and Buffalo, and thus deliver her cargo from Chicago to New York in less time and at less cost than can now be done by canal from Buffalo to New York. Such a realization would establish the commerce of New York on an enduring basis, never to be shaken by any development of trade, or combination of circumstances, that now seem possible.

All the great railway systems of the West, north of Arkansas and Texas, terminate at lake ports, and their prosperity and very existence depend on the diversion of all the business they can control to these ports, and with this canal enlarged, all the heavy freights that reach those ports, bound east, are destined by the laws of trade to take the water route, as being cheaper than any rail transit yet dreamed of.

Within the network of these railway lines, or grouped about the Great Lakes themselves, lay the great grain fields of the country, its principal forests and mines, as well as the chief part of its inland cities.

They must all become tributary to this canal if enlarged, and offer in commodities suited to canal transportation a larger volume of tonnage than the world has ever seen concentrated on an artificial line of transportation.

The importance of this enterprise increases with the rapid growth of our population and the consequent changing social and economic conditions of the country. Our productive capacity is beginning to exceed the demand. Our foreign grain markets are threatened with new competition from India and Australia.

If our national prosperity is to continue, we must reach foreign markets with our manufactures, and thus, by increasing the manufacturing class, create new home demands for our surplus food.

To reach these markets we must cheapen the goods by lessening the cost of living to the operatives, and also the cost of bringing together the raw materials requisite to manufacturing processes, and of sending the manufactured products to market.

With our wide-spread territory, cheap transportation is the chief agency in effecting these economies, and the Erie Canal, joining the granaries, the mines, and the forests of the West with the manufactories of the East, should be endowed with the necessary capacity to effectually realize the ideal of the political economist as to transportation.

I have thus crudely presented the salient feature of this problem to my professional brethren, in the belief that it must soon become an urgent engineering question, and trusting that they will give it thorough consideration and aid in giving it intelligent form, and, if found worthy, in commending it to popular appreciation.

TABLE I.—*Floating equipment on the Great Lakes, 1886.*

[From the U. S. Census, 1890.]

Classification of vessels.	Number of vessels.	Net tonnage of vessels.	Valuation of vessels.
Total.....	1, 997	634, 652	\$30, 597, 450
A—Structure:			
Side-wheel steamers.....	43	14, 150	1, 494, 500
Propellers under 1,000 tons.....	335	177, 402	9, 475, 100
Propellers between 1,000 and 1,500 tons.....	72	86, 728	5, 935, 000
Propellers over 1,500 tons.....	21	34, 868	2, 645, 000
Tugs.....	466	11, 737	2, 497, 600
Schooners.....	730	183, 792	5, 398, 850
Barges.....	330	125, 975	3, 151, 400
B—Material:			
Steel.....	6	6, 459	694, 000
Iron.....	35	22, 714	2, 675, 000
Composite.....	2	63	39, 000
Wood.....	1, 954	605, 416	27, 189, 450
C—Sail or steam:			
Steam vessels.....	937	324, 885	22, 047, 200
Sailing vessels.....	1, 060	309, 767	8, 550, 250

TABLE II.—*Floating equipment on the Great Lakes, 1890.*

Classification of vessels.	Number.	Tonnage.	Value.	Increase.
Total.....	2, 055	826, 360	\$58, 128, 500	\$27, 531, 050
A—Structure:				
Side-wheel steamers.....	42	16, 949	2, 209, 500	715, 000
Propellers under 1,000 tons.....	431	154, 232	13, 905, 600	4, 430, 500
Propellers between 1,000 and 1,500 tons.....	122	151, 611	11, 804, 000	5, 869, 000
Propellers over 1,500 tons.....	110	188, 390	17, 737, 000	15, 092, 000
Tugs.....	448	12, 520	2, 778, 250	280, 650
Schooners.....	577	158, 620	4, 726, 150	-----
Barges.....	325	144, 038	4, 968, 000	1, 816, 000
B—Material:				
Steel.....	68	99, 457	11, 964, 500	11, 270, 500
Iron.....	39	24, 673	2, 638, 000	-----
Composite.....	13	13, 554	1, 465, 000	1, 426, 000
Wood.....	1, 935	688, 676	42, 061, 000	14, 871, 550
C—Sail or steam:				
Steam vessels.....	1, 153	523, 702	48, 434, 350	26, 387, 150
Sailing vessels.....	902	302, 658	9, 694, 150	1, 143, 900

TABLE III.—Quantities of grain, flour, and meal received at the ports named below each year from 1883 to 1890, inclusive.

[From annual reports of New York Produce Exchange.]

Ports.	1883.	1884.	1885.	1886.
New York:	<i>Bushels.</i>	<i>Bushels.</i>	<i>Bushels.</i>	<i>Bushels.</i>
By canal, via river	41,220,908	37,925,257	29,930,587	44,036,522
Coastwise and river	3,725,238	2,417,962	3,738,304	2,132,370
By rail	79,390,091	75,076,847	92,968,540	84,741,170
Total New York	124,336,237	115,420,066	126,637,431	130,910,062
Portland, Me	3,200,506	7,934,194	6,363,916	5,867,150
Boston	37,527,022	34,520,298	31,166,368	35,769,884
Philadelphia	22,333,384	20,339,131	23,189,449	21,314,992
Baltimore	35,847,124	33,119,610	34,299,861	38,772,444
New Orleans	18,373,230	12,981,300	11,305,012	12,799,283
Total United States, Atlantic ports ..	241,617,503	224,314,599	233,162,038	245,433,815
Montreal, Canada	18,096,455	17,554,523	15,814,616	21,098,527

Ports.	1887.	1888.	1889.	1890.
New York:	<i>Bushels.</i>	<i>Bushels.</i>	<i>Bushels.</i>	<i>Bushels.</i>
By canal, via river	46,011,000	34,921,275	33,995,895	30,185,400
Coastwise and river	1,414,708	3,474,619	2,436,407	1,609,551
By rail	80,075,096	68,556,476	76,118,054	90,218,719
Total New York	127,500,804	106,052,370	112,550,356	122,013,670
Portland, Me	6,398,824	5,999,878	8,069,901	6,649,636
Boston	31,921,497	29,401,549	30,189,053	30,815,742
Philadelphia	25,038,809	17,158,523	18,460,942	35,214,826
Baltimore	39,252,205	30,275,840	42,349,047	46,435,135
New Orleans	16,853,936	12,030,865	20,812,159	21,575,442
Total United States, Atlantic ports ..	246,966,075	200,919,025	232,431,458	262,704,451
Montreal, Canada	19,891,891	14,018,520	17,659,337	17,444,966

NOTE.—Receipts at New York, Portland, Boston, Philadelphia, and Baltimore include shipments from the West to foreign countries through these ports on through bills of lading. Receipts at Portland via Montreal are duplications of receipts reported at Montreal. Receipts at Baltimore include flour ground by city millers (526,191 barrels in 1890) and exported. Receipts at New Orleans do not include shipments of oats and corn through that port to foreign countries on through bills of lading.

Grain embraces flour as wheat, corn, rye, oats, barley, malt, and pease.

TABLE IV.—Receipts by all routes at New York for the year 1890.

	Various.	Total rail.	River and coast.	Canal.	Total water.	Total rail and water.
Flour	142,053	5,475,338	160,046	-----	160,046	5,635,384
Meal	246	179,833	4,120	-----	4,120	183,953
Meal	2,358	461,149	13,212	-----	13,212	494,361
Wheat	20,375	6,366,925	151,332	9,276,600	9,427,932	15,794,857
Corn	420,400	17,913,400	75,866	16,272,200	16,348,066	34,261,466
Oats	150,200	32,180,200	7,100	1,556,700	1,563,800	33,744,000
Barley	10,450	2,183,800	424,140	1,687,700	2,111,840	4,295,640
Rye	19,056	534,477	66,716	627,200	693,916	1,228,393
Malt	15,166	4,164,166	121,272	741,100	762,372	5,026,538
Peas	53,150	595,100	14	23,900	23,914	619,014
Total grain	688,797	63,938,068	846,440	30,185,400	31,031,840	94,969,908
Flour	639,239	24,639,020	720,207	-----	720,207	25,359,227
Meal	5,700	1,641,630	42,904	-----	42,904	1,684,534
Grand total	1,333,736	90,218,718	1,609,551	30,185,400	31,794,951	122,013,669
Per cent	1.09	73.94	1.32	24.74	26.06	100

TABLE V.—Official annual statement of lake and canal rates, Buffalo, December 4, 1890.

Date.	Wheat.		Corn.	
	Lake rates per bushel, from Chicago to Buffalo.	Canal rates per bushel, from Buffalo to New York.	Lake rates per bushel, from Chicago to Buffalo.	Canal rates per bushel, from Buffalo to New York.
	Cents.	Cents.	Cents.	Cents.
May 31.....	1.69	3.98	1.41	3.59
June 30.....	2.20	3.75	1.91	3.35
July 31.....	2.26	3.63	1.25	3.13
August 31.....	1.50	3.92	1.25	3.43
September 30.....	1.88	3.93	1.62	3.43
October 31.....	1.98	4.02	1.72	3.52
November 30.....	2.16	3.86	1.97	3.30
Average.....	1.95	3.87	1.69	3.39

TABLE VI.—Statement of the tons of property moved on the Erie Canal of New York for eleven years.

[From the report of the superintendent of public works of New York for 1891.]

1880.....	4,608,651	1886.....	3,308,642
1881.....	3,598,721	1887.....	3,840,513
1882.....	3,694,364	1888.....	3,321,516
1883.....	3,587,102	1889.....	3,673,554
1884.....	3,389,555	1890.....	3,303,929
1885.....	3,208,207		

TONNAGE.

The whole number of tons of freight carried upon the canals of New York during the season of navigation of 1891 was 4,563,472 tons, and was composed of the following-described class of articles:

Product of the forest.....	1,206,986
Agriculture.....	1,171,192
Manufactures.....	109,387
Merchandise.....	250,083
Other articles.....	1,825,824
Total.....	4,563,472

TABLE VII.—Annual average freight rates per bushel of wheat for transportation from Chicago to New York for each year from 1857 to 1890, inclusive.

[Prepared by Mr. J. C. Brown, statistician New York Produce Exchange.]

Calendar year.	Average rates per bushel.			Calendar year.	Average rates per bushel.		
	By lake and canal. <i>a</i>	By lake and rail.	By all rail.		By lake and canal. <i>a</i>	By lake and rail.	By all rail.
	Cents.	Cents.	Cents.		Cents.	Cents.	Cents.
1857.....	25.29			1874.....	14.10	16.9	28.7
1858.....	16.28			1875.....	11.43	14.6	24.1
1859.....	17.59			1876.....	9.58	11.8	16.5
1860.....	24.83			1877.....	11.24	15.8	20.3
1861.....	26.55			1878.....	9.15	11.4	17.7
1862.....	26.33			1879.....	11.60	13.3	17.3
1863.....	22.91			1880.....	12.27	15.7	19.9
1864.....	28.36			1881.....	8.19	10.4	14.4
1865.....	26.62			1882.....	7.89	10.9	14.6
1866.....	29.61			1883.....	8.37	11.5	16.5
1867.....	22.36			1884.....	6.31	9.55	13.125
1868.....	22.79	29.0	42.6	1885.....	5.87	9.02	14.00
1869.....	25.12	25.0	35.1	1886.....	8.71	12.00	16.50
1870.....	17.10	22.0	33.3	1887.....	8.51	12.00	<i>b</i> 16.33
1871.....	20.24	25.0	31.0	1888.....	5.93	11.00	<i>b</i> 14.50
1872.....	24.47	28.0	33.5	1889.....	6.89	<i>b</i> 8.70	15.00
1873.....	19.19	26.9	33.2	1890.....	5.85	8.50	14.31

*a*Including canal tolls until 1882, but not Buffalo transfer charges.
*b*Averages of officially published tariffs.

TABLE VIII.—*Annual average canal freight rates on wheat and the tolls on wheat from Buffalo to New York, and the elevating and storage rates at Buffalo for each year from 1870 to 1890, inclusive.*

[Prepared by Mr. William Thurstone, secretary of the Buffalo Merchants' Exchange.]

Year.	Average canal freight rates.	Tolls.	Elevating, including storage. <i>a</i>	Year.	Average canal freight rates.	Tolls.	Elevating, including storage. <i>a</i>
	<i>Cents.</i>	<i>Cents.</i>	<i>Cents.</i>		<i>Cents.</i>	<i>Cents.</i>	<i>Cents.</i>
1870.....	11.2	3.1	1.25	1881.....	4.7	1	.875
1871.....	12.6	3.1	1.25	1882.....	5.4	1	.875
1872.....	13	3.1	1.25	1883.....	4.9		.875
1873.....	11.4	3.1	1.25	1884.....	4.2		.875
1874.....	10	3.1	1.25	1885.....	3.8		.875
1875.....	7.9	2	2	1886.....	5		.875
1876.....	6.6	2	2	1887.....	4.5		.875
1877.....	4.4	1	1	1888.....	3.4		.875
1878.....	6	1	1	1889.....	4.8		.875
1879.....	6.8	1	1	1890.....	3.8		.875
1880.....	6.5	1	1				

a Storage varied; five to ten days the limit.TABLE IX.—*Freight charges per ton per mile on the following trunk railroads of the United States and on the New York State canals, from 1870 to 1889, inclusive.*

Railroads and canals.	1870.	1871.	1872.	1873.	1874.	1875.	1876.	1877.	1878.	1879.
	<i>Cts.</i>	<i>Cts.</i>	<i>Cts.</i>	<i>Cts.</i>	<i>Cts.</i>	<i>Cts.</i>	<i>Cts.</i>	<i>Cts.</i>	<i>Cts.</i>	<i>Cts.</i>
New York Central ^{<i>a</i>}	1.884	1.649	1.593	1.573	1.462	1.275	1.051	1.014	.914	.80
Pennsylvania ^{<i>b</i>}	1.549	1.389	1.416	1.415	1.255	1.058	.892	.980	.918	.796
New York, Lake Erie and Western ^{<i>a</i>}	1.333	1.435	1.526	1.454	1.312	1.209	1.099	.955	.973	.78
Boston and Albany ^{<i>a</i>}	2.193	2.09	2.016	1.958	1.818	1.533	1.288	1.208	1.129	1.11
Philadelphia and Erie ^{<i>b</i>}	1.303	1.205	1.192	1.135	.977	.865	.776	.786	.628	.512
Lake Shore and Michigan Southern ^{<i>b</i>}	1.504	1.391	1.374	1.335	1.18	1.01	.817	.804	.734	.642
Michigan Central ^{<i>b</i>}	1.982	1.747	1.867	1.891	1.569	1.398	1.115	.878	.848	.692
Chicago, Burlington and Quincy ^{<i>b</i>}	2.392	2.2	2.076	1.921	1.901	1.889	1.603	1.428	1.247	1.023
Chicago and Northwestern ^{<i>c</i>}	3.093	2.869	2.614	2.351	2.226	1.946	1.789	1.702	1.724	1.56
Chicago, Milwaukee and St. Paul ^{<i>b</i>}	2.82	2.54	2.43	2.50	2.38	2.10	2.04	2.08	1.80	1.72
St. Louis, Iron Mountain and Southern ^{<i>b</i>}					2.63	2.20	2.05	1.98	1.92	1.88
Chicago, Rock Island and Pacific ^{<i>d</i>}		2.64	2.49	2.29	2.07	1.92	1.91	1.71	1.56	1.43
Illinois Central ^{<i>b</i>}			2.16	2.20	2.09	1.93	1.80	1.82	1.64	1.52
Chicago and Alton ^{<i>b</i>}					2.124	1.879	1.626	1.447	1.298	1.054
Pittsburg, Fort Wayne and Chicago ^{<i>b</i>}				1.41	1.26	1.10	.93	1.01	.88	.76
Chesapeake and Ohio.....										.858
Maine Central.....									3.32	2.87
Mobile and Ohio.....									2.29	2.48
Average on railroads ..	2.005	1.923	1.896	1.803	1.750	1.554	1.386	1.320	1.401	1.249
New York State canals.	.835	1.027	1.016	.887	7.43	.668	.679	.564	.42	.46

^{*a*} Year ending September 30.^{*b*} Year ending December 31.^{*c*} Year ending May 31.^{*d*} Year ending March 31.

50 SHIP CANAL FROM THE GREAT LAKES TO HUDSON RIVER.

TABLE IX.—*Freight charges per ton per mile on the following trunk railroads of the United States, etc.—Continued.*

Railroads and canals.	1880.	1881.	1882.	1883.	1884.	1885.	1886.	1887.	1888.	1889.
	<i>Ots.</i>	<i>Ots.</i>	<i>Ots.</i>	<i>Ots.</i>	<i>Ots.</i>	<i>Ots.</i>	<i>Ots.</i>	<i>Ots.</i>	<i>Ots.</i>	<i>Ots.</i>
New York Central <i>a</i>	.88	.78	.73	.91	.83	.68	.76	.78	.77	.76
Pennsylvania <i>b</i>	.88	.799	.817	.819	.740	.73	.755	.73	.634	.686
New York, Lake Erie and Western <i>a</i>	.84	.805	.749	.780	.685	.628	.636	.662	.669	.649
Boston and Albany <i>a</i>	1.20	1.04	1.07	1.19	1.09	.94	1.10	1.17	1.08	1.02
Philadelphia and Erie <i>b</i>	.56	.55	.62	.62	.58	.50	.52	.54	.519	.52
Lake Shore and Michigan Southern <i>b</i>	.75	.62	.63	.728	.652	.55	.639	.67	.636	.664
Michigan Central <i>b</i>	.842	.718	.77	.83	.65	.56	.686	.694	.694	.726
Chicago, Burlington and Quincy <i>b</i>	(<i>c</i>)	(<i>c</i>)	(<i>c</i>)	(<i>c</i>)	(<i>c</i>)	(<i>c</i>)	(<i>c</i>)	(<i>c</i>)	(<i>c</i>)	(<i>c</i>)
Chicago and Northwestern <i>d</i>	1.49	1.47	1.42	1.42	1.31	1.19	1.19	1.10	1.02	1.03
Chicago, Milwaukee and St. Paul <i>b</i>	1.76	1.70	1.48	1.39	1.29	1.28	1.17	1.09	1.01	1.06
St. Louis, Iron Mountain and Southern <i>b</i>	2.08	1.76	1.50	1.56	1.47	1.41	1.30	1.26	1.22	1.12
Chicago, Rock Island and Pacific <i>e</i>	1.21	1.22	1.28	1.17	1.10	1.40	1.07	1.01	.93	.97
Illinois Central <i>b</i>	1.54	1.52	1.42	1.43	1.37	1.31	1.16	1.09	.95	1.03
Chicago and Alton <i>b</i>	1.206	1.24	1.26	1.13	1.01	1.01	.96	.95	.92	.92
Pittsburg, Fort Wayne and Chicago <i>b</i>	.92	.74	.75	.79	.67	.58	.69	.71	.66	.69
Chesapeake and Ohio.....	.869	.891	.793	.723	.672	.548	.541	.536	(<i>d</i>)	(<i>d</i>)
Maine Central.....	2.74	2.74	2.75	2.42	.239	2.46	2.17	2.33	2.10	2.03
Mobile and Ohio.....	2.20	2.06	2.15	2.28	1.97	1.70	1.51	1.32	1.01	.96
Average on railroads ..	1.292	1.215	1.188	1.888	1.087	1.028	.992	.974	.926	.928
New York State canals.	.49	.38	.42	(<i>f</i>)	(<i>f</i>)	(<i>f</i>)	(<i>f</i>)	(<i>f</i>)	(<i>f</i>)	(<i>f</i>)

a Year ending September 30.*b* Year ending December 31.*c* No date.*d* Year ending May 31.*e* Year ending March 31.*f* Tolls abolished.TABLE X.—*Annual average through freight rates on grain, flour and provisions (per 100 pounds) from Chicago to European ports, by all rail to seaboard and thence by steamers, from 1880 to 1890.*

[Prepared by Secretary of the Board of Trade, Chicago.]

Shipped to—	Articles.	1880.	1881.	1883.	1884.	1885.	1886.	1887.	1888.	1889.	1890.
		<i>Dolls.</i>	<i>Dolls.</i>	<i>Dolls.</i>	<i>Dolls.</i>	<i>Dolls.</i>	<i>Dolls.</i>	<i>Dolls.</i>	<i>Dolls.</i>	<i>Dolls.</i>	<i>Dolls.</i>
Liverpool...	Grain	.4922	.3718	.3647	.4428	.2943	.3672	.3487	.3490	.3958	.3187
Do.....	Sacked flour..	.5433	.3499	.4030	.2982	.2887	.3420	.3491	.3371	.4162	.2625
Do.....	Provisions ...	.6871	.4670	.5183	.4674	.3508	.4415	.4073	.3747	.5746	.5109
Glasgow....	Grain		.3932		.2641	.3228	.3910	.3705	.3605	.4075	.3550
Do.....	Sacked flour..	.5651	.4400		.2811	.3443	.3951	.3968	.3579	.4425	.4188
Do.....	Provisions ...	.6732	.5361		.4789	.4086	.5329	.4855	.4658	.6142	.5833
London.....	Grain		.3620		.2783	.2921	.4086	.3945	.3802		.3550
Do.....	Sacked flour..		.4276		.3825	.3171	.4021	.3784	.3776	.4510	.4047
Do.....	Provisions ...		.5550		.4891	.4046	.5471	.4781	.4570	.6196	.5813
Antwerp ...	do.....	.7385	.5708	.6295	.5373	.4327	.5219	.4961	.4472	.6094	.4688
Hamburg ...	do.....		.5471	.6279	.5434	.3842	.5154	.5229	.5426	.6262	.5260
Amsterdam.	do.....			.6683	.5434	.4383	.5562	.5525	.5426	.6500	.5000
Rotterdam..	do.....			.6683	.4354	.4383	.5562	.5508	.5426	.6500	.5000
Copenhagen	do.....			.7158	.5434	.4951	.5169	.5508	.5483	.6492	.5813
Stockholm..	do.....			.8255	.5904	.5468	.5543	.5865	.6671	.7500	.6094
Stettin.....	do.....			.7420	.5422	.5210	.5833	.5508	.5483	.6492	.6813
Bordeaux...	do.....			.6432	.5603	.5066	.5708	.6021	.5821	.7491	.6650

TOPOGRAPHIC SURVEYS, ETC., OF ARID LANDS.

FEBRUARY 18, 1896.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. HERMANN, from the Committee on Irrigation of Arid Lands, submitted the following

REPORT:

[To accompany H. R. 6246.]

The Committee on Irrigation of Arid Lands, to whom was referred the bill (H. R. 6246) to provide topographic surveys and to mark elevations on the public lands, beg leave to report:

Your committee have carefully considered the proposed legislation and have consulted the views of the Secretary of the Interior and of the Director of the United States Geological Survey, and the conclusion arrived at is that a necessity exists for suitable marking on the land surface of the elevations surveyed by such iron or stone posts or bench marks as will clearly indicate the elevation and also the relative position as to the public land surveys and physical conformations of such marks and posts, and thereby enable the topographic maps and field notes to guide the inquirer, and to point out in an accurate manner the designated elevations of the land surface.

Your committee attach hereto the detailed reports from the Interior Department upon the pending bill, and based upon such reports your committee report the bill back with a favorable recommendation.

DEPARTMENT OF THE INTERIOR,
Washington, February 13, 1896.

SIR: Referring to your letter of the 3d instant, inclosing a copy of a resolution unanimously adopted by your committee on that date, which you say expresses the sense of your committee, and which resolution is, in terms, as follows:

“For topographical surveys in various portions of the United States, ——— dollars, ——— dollars of which shall be expended west of the ninety-seventh meridian in the States of North Dakota, South Dakota, Nebraska, Kansas, Texas, and the Territory of Oklahoma, and at least one-third of the remainder shall be expended west of the one hundred and third meridian; to be immediately available until expended: *Provided*, That all surveys west of the one hundredth meridian shall be marked on the ground by conspicuous iron or stone posts or bench marks, which shall show the elevation above the sea level to the nearest foot. At least one such post or bench mark shall be established in each eighteen square miles of area surveyed and these shall be placed, wherever possible, on the township or section corners of the public-land surveys, or shall be located with reference thereto and connected therewith; and where no governmental survey has been made such posts or bench marks shall be located with reference to and connected with some conspicuous physical characteristic of the country.”

and requesting from me an expression as to the advisability and practicability of the wished-for legislation before reporting said resolution to the House, I have the honor to hand you herewith a report thereon from the Director of the Geological Survey, which report is submitted to you as the views of the Department on the matters contained in said resolution.

Very respectfully,

HOKE SMITH, *Secretary.*

Hon. BINGER HERMANN,

Chairman Committee on Irrigation of Arid Lands, House of Representatives.

DEPARTMENT OF THE INTERIOR,
UNITED STATES GEOLOGICAL SURVEY,
Washington, D. C., February 10, 1896.

SIR: I have the honor to submit the following report upon the resolution of the Committee on Irrigation of Arid Lands of the House of Representatives, referred to me by you under date of February 6, 1896. The resolution reads as follows:

"For topographical surveys in various portions of the United States, ——— dollars, ——— dollars of which shall be expended west of the ninety-seventh meridian in the States of North Dakota, South Dakota, Nebraska, Kansas, Texas, and the Territory of Oklahoma, and at least one-third of the remainder shall be expended west of the one hundred and third meridian; to be immediately available until expended: *Provided*, That all surveys west of the one hundredth meridian shall be marked on the ground by conspicuous iron or stone posts or bench marks, which shall show the elevation above the sea level to the nearest foot. At least one such post or bench mark shall be established in each eighteen square miles of area surveyed, and these shall be placed, wherever possible, on the township or section corners of the public-land surveys, or shall be located with reference thereto and connected therewith; and where no governmental survey has been made such posts or bench marks shall be located with reference to and connected with some conspicuous physical characteristic of the country."

The above resolution covers essentially the same ground as the amendment proposed in my letter to you of January 30, 1896, with the exception that it enters into details which, apparently, are not necessary in legislation affecting the entire United States.

To place the matter again before you, in this connection, I will quote the clause relating to topographic surveys under which the appropriations for the present fiscal year are made. It reads as follows:

"Topographic surveys in various portions of the United States, thirty-five thousand dollars, of which shall be expended west of the ninety-seventh meridian in the States of North Dakota, South Dakota, Nebraska, Kansas, Texas, and the Territory of Oklahoma, and at least one third of the remainder shall be expended west of the one hundred and third meridian, to be immediately available and continue available until expended, one hundred and fifty thousand dollars."

If it is the desire of the Committee on Irrigation of Arid Lands to report an amendment for a change in the method of making the topographic maps of the Geological Survey, I would suggest the following for the purpose, to be substituted for the clause relating to topographic surveys as quoted above and printed in the Book of Estimates for the year 1896-97:

"For topographic surveys in various portions of the United States, one hundred and fifty thousand dollars, to be immediately available, at least one-half of which shall be expended west of the ninety-seventh meridian: *Provided*, That hereafter in such surveys west of the ninety-seventh meridian, elevations above sea level, or some fixed point, shall be marked on the ground by iron or stone posts or bench marks, at least two such posts or bench marks to be established in each township or equivalent area, except in the forest clad and mountain areas, where at least one shall be established, and one at least in each equivalent area east of the ninety-seventh meridian; and these shall be placed, whenever practicable, near the township corners of the public-land surveys."

The above substitute for the committee resolution is suggested because I find on examination of the resolution that there are certain details and provisions in it that, if enacted into law, will embarrass rather than assist in the accomplishment of the results desired.

The provision to expend a specific amount in certain States west of the ninety-seventh meridian is taken from the wording of the clause making the appropriation for the current fiscal year. This discrimination is no longer necessary, as the provision for expending at least one-half of the appropriation west of the ninety-seventh meridian overcomes the objection raised long ago that an undue amount of the appropriation was expended east of the ninety-seventh meridian.

Establishing iron or stone posts or bench marks which shall show the elevation above sea level to the nearest foot.

(1) *Sea level.*—It will require several years to run exact lines of levels from the sea to the interior. No such levels exist west of the ninety-seventh meridian except in the immediate vicinity of the Pacific Coast, and there are but a few accurate lines of levels in the region east of the ninety-seventh meridian. I think it would be better to establish a base monument at certain points in each area under survey, as, for instance, in the Platte Valley, on the Wyoming-Nebraska line; at Denver, Colo.; at a point in the Big Horn Basin, Wyoming; at Helena, Mont., and at other important points in various portions of the country to which surveys can be referred. These points can be determined with approximation to sea level. When exact lines of level are eventually extended from the sea to the various base points, the true

elevation above sea level can then be placed upon them and all the local elevations be referred to them. This is essentially the same principle that is followed in establishing standard meridians to which all land surveys are referred.

(2) *Elevation to the nearest foot.*—In many areas it will be desirable to establish the elevations much more closely than the nearest foot, as, for instance, on gently sloping bench and valley lands where the grade is not over 2 or 3 inches to the mile. I think it is unnecessary to specify the range of elevation which must be provided for, as it will be the aim of the surveyors to make accurate determination of levels.

At least one such post or bench mark shall be established in each 18 square miles of area surveyed.

This requirement is open to misinterpretation, as the area might be 18 miles long and 1 mile broad, or its dimensions might be 3 by 6 miles. If for that wording we substitute the wording of the suggested amendment—"at least two such posts or bench marks to be established in each township or equivalent area"—provision will be made for the establishment of a monument in each 18 square miles of area, and the monuments will never be more than 6 miles distant from each other, except in the forest clad and mountain areas. I think that it will not always be necessary in the forest clad and mountain areas, and in the more settled areas east of the ninety-seventh meridian, to establish monuments as near to each other as two in each township; but if so, provision is made therefor in the substitute that I have suggested, which reads: "And one at least in each equivalent area east of the ninety-seventh meridian." In the more settled Eastern States we now locate all houses and buildings in the areas surveyed, and if there is one established monument in each 6 miles of distance it will be ample for the use of geologists, mining engineers, and all local surveys.

Whenever possible on the township or section corners of the public-land surveys.

This provision would require that these monuments be placed at the exact township or section corner. This would replace the monuments already established and would thus interfere with the land surveys. I suggest that the word "near" be substituted for "on." If this is done the monument can be uniformly placed at a certain distance, say, 2 or 5 feet, north of all such corners, or south if it can not be placed north, and a record be made by the surveyor in his field notes, and a copy be subsequently filed with the surveyor-general of the State, so that if he at any time wishes to refer to the monument he will know its exact relation to the land-survey corner.

And where no Governmental survey has been made, such posts or bench marks shall be located with reference to and connected with some conspicuous physical characteristic of the country.

This provision is unnecessary, as it will be embraced in the instructions given by the director of the survey to the surveyors. That such monuments shall be erected in the areas not covered by the land surveys is provided for in the suggested amendment by the phrase "or equivalent area."

These criticisms and suggestions are made in order that the work, which is of a national character, may be adjusted to the varying conditions which arise in the different portions of the country.

In relation to the effect of the proposed change, I beg to repeat a portion of my letter to you of January 30, 1896, and to make some further observations.

It is my opinion that the maps of the survey would be enhanced in value fully 100 per cent if permanent records were left on the ground, in the form of monuments, to show the position of triangulation points and township corners, and their true elevation above sea level or some fixed point. Under existing law there is no authority for establishing such monuments. If the amendment proposed is substituted for the clause in the estimates, the survey will be in position to establish the monuments, as proposed, and thus connect the topographic surveys with the land surveys and with the surface of the country. This will give the surveys greater usefulness in engineering work of every kind, for the utility and practical value of any survey is largely dependent upon the measures taken to preserve its results and to render possible the ready identification and practical use of these results.

To accomplish this monuments are indispensable, and from the experience already gained in the field it is well known that if township corners and land surveys are to be preserved there must be established near them permanent monuments whose positions are marked on the maps. It is an indisputable fact that the practical utility of the surveys in much of the region west of the ninety-seventh meridian, in connection with mining, irrigation, water supply, and to a certain extent in the matter of railroad location, depends upon the practicability of identifying the results of the survey on the ground. In many areas the present system of surveying will suffice for the purposes of the geologic map, but for the uses mentioned above, and for work in the coal and iron areas of the Appalachians, the Lake Superior, and similar regions, the approximate location of contours will not suffice. Certain points must be capable of identification by means of monuments or bench marks, and this identification, to be of value, must be absolute.

It should be remembered that all industrial enterprises in the public-land State are based upon public-land surveys, and hence the topographic surveys, to be of the greatest practical value, must be connected and identified with those land surveys. It should also be borne in mind that the addition of permanent monuments connected with the public-land surveys will aid in preserving and identifying the latter. This is especially true of the western portion of the country, where lack of population will prevent private development from perpetuating the monuments which are now used to mark the public-land surveys. Many of these marks are made of material that is subject to rapid decay; others are so insecurely fixed that within the next fifty years all of those outside of cultivated lands or the limits of mining districts will have disappeared. The establishment of a few conspicuous monuments of durable material will be of great value as a basis for the resurvey of the public lands, should this ever become necessary. It is not proposed to locate the monuments in place of the township monuments, but to put them a few feet away from the township monuments, and record in the field notes their relation to the latter. It is not the intention to provide for the reestablishment of land office lines or corners, but to mark such lines or corners, whenever it is practicable to do so, as stated above.

The cost of doing this and of running more accurate lines of levels than it has been the practice in the past to run will be small as compared with the benefits that will accrue therefrom.

The original object of the topographic map was to serve as a basis for the geologic map of the United States, but with the progress of the Survey from year to year the public have become more and more acquainted with the maps, and a strong demand has grown up for the topographic maps as such, and I now think it is time the topographic surveys should be connected directly with the land surveys in the manner proposed, and that permanent monuments should be left in all portions of the country where the surveys are made.

Of the benefit the establishment of the proposed monuments will be to the geologists of the Survey, to mining interests, and to all engineers engaged in irrigation work, I beg to submit the following statement:

AREAL GEOLOGY.

In areal geology the geologist endeavors to delineate upon his map as accurate a picture as possible of the outlines or boundaries of different rock formations as they occur on the tract of ground which the map represents, in order that from this areal map he may draw deductions as to underground structure of that and adjoining regions, and construct profiles showing the courses and positions at various depths of these different rock formations and of their contained useful minerals, such as coal, iron ore, salt, etc.

Topographic maps, even when the result of the most improved methods and greatest skill, are necessarily more or less imperfect representations of the earth's surface, and the geologist often finds it difficult to determine the exact location upon his map of an important geological feature. In the mountain regions the sharp summits of hills or mountains have been used by the topographers as triangulation points, and (thus located with greater accuracy than other points) may be used by the geologist to locate a given point if a monument has been built. Less accurate locations may be obtained from intersections of streams, valleys, and ridges, or of artificial features, such as roads, buildings, etc. In the mountain regions there are likely to be considerable areas where such features are entirely wanting or are not available.

Often triangulation monuments built of loose stones are scattered about, and others are built so that they can not be distinguished by surveyors from those built by the topographers of the Survey. It thus becomes apparent that it will be of great use to the geologist in mountain regions to have permanent and accurately located monuments within short distances of each other, to which he can refer in locating important geologic features and in checking on the ground the accuracy of his geological work. On the Great Plains area such monuments are even of greater importance. Elevated points that would serve as triangulation points are generally wanting; intersections of important streams are not often at hand; and there are few natural features capable of representation on the map to which he can tie his observations. His only recourse is to township or section corners, when they can be found. Under the present system of marking such corners, however, the stakes or stones have often been destroyed or moved, and they have an unknown error of location, as they are not conducted with any system of triangulation or exact measurement.

In the rolling and hilly areas east of the Mississippi, and the mountain areas of the Appalachian Region and New England, the need of exact datum points is fully as great as in the West. This is particularly true in the survey of the great mining areas of the Lake Superior Region, and the great coal fields of the Mississippi Basin and the Appalachian System. This will be spoken of more especially under the following heading.

MINING GEOLOGY.

In mining geology, the same advantages will accrue as in areal geology, but to a greater degree. A large part of the observations of the mining geologist are made under ground, and their location is referred to a single point on the surface. This necessitates a still higher degree of accuracy for the location of such points as mouths of shafts or tunnels, because any considerable error may entirely vitiate the deductions drawn as to the probable location under ground of ore bodies. Such points are located by mining surveyors with reference to corners of claims, and these in their turn with reference to some township corner. If the township corners are accurately indicated on the ground and on the map with reference to other topographical features, the other locations can be made in the office from the given starting points. In present practice, inasmuch as it is known that township corners may have a considerable though unknown error (in some cases of several hundred feet, and in one known case of nearly a quarter of a mile), it is found to be necessary to make a new survey to determine the location of such mine openings as serve to connect under-ground workings with the surface. Owing to this, it is often the practice at present among local mining surveyors to connect their surveys with the triangulation points of the Government geological surveys, because they are more accurately and permanently located than land-survey marks. At the present time, however, these monuments are built of piles of stone, and often, when stones are scarce, of a single stone with a bottle buried beneath it, containing a record of the position of the monument; and again, the points are more or less widely separated, as they are made with reference only to the triangulation.

The vertical element, or the exact level, is of the greatest importance in coal fields where the rocks are approximately horizontal, for upon a correct determination of the vertical element depend all of the geologist's stratigraphical and structural results. Within most of the Appalachian coal field the dip is less than 2° , or 200 feet to the mile. Now, the geologist must build up his stratigraphical columns and his structure of the region upon the topographic map which he uses. It is a delicate operation, and it is evident that a slight variation in the elevation used as a base will result in a very great change of structure. It is found in practice that while the coal beds appear to slope regularly from the margin of the basin toward the center, this apparently simple structure is complicated to a remarkable extent by slight but very irregular undulations, which traverse the field in every direction. If the errors of structure affected only the value of the scientific results they would be serious enough, but when, sooner or later, the mining engineer endeavors to make use of the maps, he is liable to be misled by them. It has been the practice of the geologist to run levels and check errors in every possible way, but if he had monuments to refer to, the elevations of which were already determined, he would have a constant check upon his work.

In the Lake Superior region the monuments and bench marks will give a basis for accurate maps which is necessary in connection with the development of the great mining operations there, both in connection with the mines and in the extension of railroads and the building of graded roads. These would also be of great service to the timber interests, in the establishment of winter roads, and of special narrow-gauge railroads, which are so necessary to carry the timber to the main railroad lines. I think that a standard upon which surveys shall be based will be of inestimable value to all mining regions.

The division of hydrography of this survey is conducting its operations under the appropriation "for gauging the streams and determining the water supply of the United States, including the investigation of underground currents and artesian wells in arid and semiarid sections." Its work is widely distributed. Streams in various parts of the United States are measured, and the underground conditions affecting water supply are studied in portions of the Great Plains region from the Dakotas to Texas. The results of this work have application in questions of water supply for irrigation and for power, and although the investigations relate primarily to quantities of water, yet there are constantly arising questions of the utilization of this water, such questions being dependent for their solution upon facts of relative elevation. That is to say, in any consideration of water resources the engineer has to ascertain first the quantities available and next the relative elevation of these quantities with respect to the point where the water is to be used, either for irrigation or for power. The one fact is as necessary as the other, for without "head," or difference of elevation, water is to a large extent useless.

The profitable employment of the water resources, whether from streams or wells, is determined often by very small differences in elevation. A few inches per mile of rise or fall may make or mar a project involving the reclamation of large areas, or may be the determining point in the location of a power plant. Thus it results that no sooner is the public informed as to matters of water quantity than an urgent appeal is made for exact information concerning slopes and elevations.

The relative elevations of land and water, and of different bodies or streams of water, are shown in a broad way on the present topographic maps; but the information is not sufficiently accurate or detailed, especially where matters of practical application depend upon differences in elevation of a few feet, or even inches. The value of the topographic maps, as far as the utilization of the water resources is concerned, would be increased many fold if, along the principal streams and the broad, nearly level valleys, accurate level lines were run and occasional monuments or bench marks were located at distances of 5 or 6 miles, these being shown upon the map. Then when a question as to diverting water from a stream or from wells on the low land is brought up, it will be possible for any person of fair intelligence to take these maps and determine in a general way, from inspection, the feasibility of the project, or to go upon the ground and settle at small outlay of time and money any doubt as to the difference of elevation.

In this way many projects which from inception are impossible would at the outset be condemned, and on the other hand attention would be drawn to feasible schemes for the development of the natural resources of the country. As the matter now stands, having determined upon the water supply and noted the general location upon the present topographic maps, it is necessary for an engineer to rerun many of the lines if he would know the exact elevation of any point. Many thousands of dollars expended in such work could be saved by the simple provision of placing a few permanent marks at the time the topographic surveys and the precise level lines are being run.

It is estimated that the cost of the extra work and the monuments will average from \$1 to \$1.50 per square mile. This will decrease the output of work about one-fifth as compared with the present cost. The greater utility and accuracy of the maps will, I think, much more than compensate for the additional cost and the decrease in output under the same appropriation.

I am, sir, yours, with respect,

CHAS. D. WALCOTT, *Director.*

The SECRETARY OF THE INTERIOR.



WILLIAM B. CALDWELL.

FEBRUARY 18, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GIBSON, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2944.]

The Committee on War Claims, to whom was referred the bill (H. R. 2944) for the relief of William B. Caldwell, submit the following report:

The following is the history of the claim of William B. Caldwell, obtained from the War Department:

The name of William B. Caldwell has not been found on the rolls of Company C, Ninth Tennessee Cavalry.

The medical records of the War Department, however, show: W. B. Caldwell, private Company C, Ninth Tennessee Cavalry, admitted to asylum general hospital Knoxville, Tenn., with gunshot fracture of ilium, ball entering near anterior superior spinous process, passing out near posterior superior spinous process, received at the battle of Morristown, November 11, 1864, and was returned to duty February 12, 1865.

No record has been found of the enrollment, muster-in, service, or discharge of this man as a member of the Ninth Tennessee Cavalry, nor of his whereabouts subsequent to February 12, 1865, but it is proper to remark that the company rolls from June, 1864, to February 1865, are not on file.

The accounting officers of the Treasury report that no record is found of any payment to him, or that he was enlisted in the United States service.

In an application for removal of a supposed charge of desertion, Caldwell deposed, September 22, 1890, that he was enlisted in Company D, Ninth Tennessee Cavalry, by Captain Fane, then commanding that company, and joined it immediately afterwards, but was soon transferred to Company C, of the same regiment; that he served with the regiment in several engagements with the enemy, the last one at Bullsgap, Tenn., on November 14, 1864, where he was severely wounded by a ball passing through his right hip, and was sent to asylum general hospital, Knoxville, Tenn., where he was treated as a soldier, remaining until about March, 1865; that he then went to the command at Cantunman Springs, Tennessee, but being unfit for service, was told by Col. J. H. Parsons to go home, where he could receive better treatment; also that he was never mustered into service, but he was treated as a soldier, was wounded in battle, and in consequence, was unfitted for service thereafter.

In a joint affidavit previously submitted (dated December 9, 1878,) Rutus McSpaden, late captain, and R. E. Newman, late second lieutenant, Company C, Ninth Tennessee Cavalry, testified that they were well acquainted with the applicant; that he was mustered in the Ninth Tennessee Cavalry about August 1, 1864. It was remarked by affiants:

"The regiment being in active service from the time he enlisted until wounded, he was not regularly mustered in, and it was not thought advisable to muster him in after his having been wounded, as there was no prospect of his ever being able to serve. His not having been mustered was no fault of his own, but was due to oversight on the part of the proper officers, caused by constant active duty. The soldier enlisted, served, and was seriously wounded while in line of duty, and is justly entitled to be mustered. The above facts are from our personal knowledge, as the soldier served under our command."

The affiants, whose signatures appear to be genuine, were present and mustered out of service with Company C, Ninth Tennessee Cavalry, September 11, 1865.

Under date of March 26, 1891, the applicant's attorneys were informed that, in the absence of record evidence of enlistment, muster in, or service, he could not be regarded by this Department as having been in the service of the United States, and that parol testimony could not be accepted to establish a record of service.

While the decision of the War Department may be in accordance with the law, the fact remains that William B. Caldwell enlisted, served, and was severely wounded, and was recognized by his regiment as a soldier.

Having obtained the benefit of Caldwell's services the Government ought not to set up a technical plea in bar of its obligation to make compensation therefor.

The committee is of opinion that it would not comport with the dignity of the Government thus to break faith with the gallant men who in that hour of gloom stood forth to peril their lives for their country, and report back the bill and recommend its passage.

○

ALEXANDER MOFFITT.

FEBRUARY 18, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MAHON, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 959.]

The Committee on War Claims, to whom was referred the bill (H. R. 959) for the relief of Alexander Moffitt, submit the following report:

The Committee on War Claims of the Forty-eighth Congress, not being clearly and fully advised of all the facts in the case, referred it to the Court of Claims for a finding of the facts under the provisions of an act entitled "An act to afford assistance and relief to Congress and the Executive Departments in the investigation of claims and demands against the Government," approved March 3, 1883. Said claim has been returned by the said Court of Claims with the following findings of fact, filed April 5, 1886, which findings have been referred to the Committee on War Claims of the present Congress, to wit:

I.

On the 12th of July, 1864, the claimant was the owner and in possession of the National Race Course, in the District of Columbia. The race course consisted of about 52 acres of land, inclosed with a suitable fence, and had thereon stables, sheds, saloons, and grand stand, and other buildings incident to a race course.

II.

On the 12th of July, 1864, Lieutenant-Colonel Oberkuffer, commanding the Twelfth Pennsylvania Artillery, by order of Major-General Doubleday, then in command of the defenses of Washington, took possession of the race course, and the military forces of the United States encamped upon and occupied the grounds and buildings for a period of eleven months.

III.

The Quartermaster Department in 1868 estimated the rental value of the premises during above occupancy to be \$1,784.45. The claimant at first refused to accept this amount, but upon being assured by the officer making the payment that his acceptance would not preclude him from seeking the balance of his claim, he accepted it and signed a receipt in full. This receipt in full was given and received in the mutual understanding that it should not preclude the claimant from seeking in Congress the balance of the rent which he believed to be justly his due, and the payment was not a final settlement such as would stop the claimant from seeking the full value of the occupancy, and was in fact, though not in form, merely a payment upon account.

IV.

At the time when the United States forces entered upon and occupied the race course and buildings, as set forth in the second finding, the saloon or restaurant was leased by the claimant at an annual rental of \$3,000, and the stables at an annual rental of \$1,200, and the fair rental value of the course, stand, and remaining prop-

erty was \$3,500 per annum, giving as a total rental value of all the premises used and occupied by the United States the sum of \$7,700 per annum, and for the eleven months of occupation the sum of \$7,058.26; but from this should be deducted the sum of \$1,784.45 received on account of rent from the Quartermaster Department, as set forth in the third finding, and likewise the sum of \$500 received by the claimant from one of his tenants for rent of the saloon, amounting in all to \$2,284.45, and leaving due to him, for the use and occupation of the United States during the foregoing term of eleven months, balance of \$4,773.81.

V.

The United States, as lessees within the District of Columbia, were bound to leave the premises and buildings in as good order and condition as when entered upon, reasonable wear and tear excepted. But during the occupancy great injury was done to the premises, and the fences were taken down for military reasons and purposes, and some of the buildings were used for lumber and others greatly injured by the usage incident to the occupancy. The injuries were in the nature of voluntary waste, for which the Government under an implied occupancy would be liable out of the meaning of the decision of the Supreme Court in the case of *Bostwick v. The United States* (94 U. S. Rep., 53). The reasonable cost of repairing the premises, buildings, and fences to as good condition as when the United States entered in possession there, ordinary wear and tear excepted, would be the sum of \$7,669.17, making, with the balance of \$4,773.81 rent set out in fourth finding, a sum of \$12,442.98 due claimant for the use and occupation of the premises.

The committee therefore recommend the payment of the amount found by the court, and recommend that the accompanying bill do pass.



EDWIN F. MATHEWS.

FEBRUARY 18, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. OTJEN, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1930.]

The Committee on War Claims, to whom was referred the bill (H. R. 1930) for the relief of Edwin F. Mathews, submit the following report:

The bill authorizes and directs the Secretary of War to cause to be investigated the claim of Edwin F. Mathews, of Pike County, Mo., for quartermaster stores and commissary supplies alleged to have been furnished by him to the United States military authorities during the late war. Claim stated at \$1,036.60.

The proof shows that Colonel Andrews, colonel Forty-ninth Regiment of Missouri enrolled troops, was called into service by order of Maj. Gen. John M. Schofield; that they subsisted largely on stores and supplies furnished by citizens residing in the localities where the troops were operating; that Captain Bartlett, of Company K, of the said Forty-ninth Regiment, took from the claimant stores and supplies of the value of \$1,000.

It seems to your committee that an investigation by the War Department is necessary before intelligent action can be had upon this case, and they report back the bill and recommend its passage.



TERRITORIAL DIVORCES.

FEBRUARY 18, 1896.—Referred to the House Calendar and ordered to be printed.

Mr. GILLET, of Massachusetts, from the Committee on the Judiciary,
submitted the following

REPORT:

[To accompany H. R. 5217.]

The Committee on the Judiciary, having considered the bill (H. R. 5217) making one year's residence in a Territory a prerequisite to obtaining a divorce there, report it with the recommendation that it do pass, amended by inserting in line 5, after the word "resided," the word "continuously."

There is now but one State which allows a divorce to an applicant who has resided there less than a year. One Territory requires but ninety days' residence, and it is notorious that it has become a resort for persons who dare not seek a divorce at home, and who acquire a temporary residence in the Territory for the sole purpose of giving jurisdiction to its courts. As a result the cases are not likely to be investigated and decided as their importance demands, and scandal and immorality result. This bill aims simply to prevent this abuse, to abolish these temporary divorce colonies, and to establish in the Territories a safeguard which has been found necessary by nearly all the States.

MARY H. NOONAN.

FEBRUARY 18, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. AVERY, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1614.]

The Committee on War Claims, to whom was referred the bill (H. R. 1614) for the relief of Mary H. Noonan, submit the following report:

A bill similar to the one introduced at this session was reported favorably by the Committee on War Claims of the Fifty-first Congress; and that the facts are fully set forth in the report made to the House first session Fifty-first Congress, which is adopted as the report of the committee.

Your committee recommend the passage of the bill.

[House Report No. 2626, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the claim of Mary H. Noonan, report as follows:

The Committee on War Claims of the Forty-ninth Congress, to whom was referred the claim of Mary H. Noonan, not being fully and clearly advised of all the facts in said claim, referred the same to the Court of Claims for a finding of facts, under the provisions of an act entitled "An act to afford assistance and relief to Congress and the Executive Departments in the investigation of claims and demands against the Government," approved March 3, 1883, commonly called the "Bowman Act."

The claim was returned by said court, with the findings of fact, to the Speaker of the House at the first session of the Fiftieth Congress, and was referred by the Speaker of the House to the Committee on War Claims, and was by said committee unanimously reported back to the House recommending that the same be paid, and was committed to the Committee of the Whole House and ordered to be printed.

Your committee hereby adopts the report of the said committee of the Fiftieth Congress as follows:

The committee are satisfied of the loyalty of the claimant, and that the property was occupied and used as specified by the Army of the United States, and that the amount found due to claimant by the Court of Claims should be allowed and paid to her.

Your committee report herewith a bill appropriating the money to pay the claimant and recommend its passage, and ask that the miscellaneous document be printed.

[Court of Claims. Congressional case No. 48. Mary H. Noonan v. The United States].

FINDINGS OF FACT.

At a Court of Claims held in the city of Washington on the 30th day of January, A. D. 1888, the court filed the following findings of fact, to wit:

The claim in the above-entitled case for supplies or stores alleged to have been taken by or furnished to the military forces of the United States for their use during

the late war for the suppression of the rebellion, was transmitted to the court by the War Claims Committee of the House of Representatives on the 3d day of March, 1883.

P. E. Dye, esq., appeared for claimant, and the Attorney-General, by Lewis Cochane, esq., his assistant, and under his direction, appeared for the defense and protection of the interests of the United States.

The case having been brought to a hearing on its merits on the 5th day of January 1888, the court, upon the evidence, and after considering the briefs and arguments of counsel on both sides, finds the facts to be as follows:

I.

Cornelius Noonan, dec'd, was a native of Ireland, and was admitted to become a citizen of the United States in the 3d judicial district court of the State of Mississippi May 24th, 1852; he resided for many years prior to June, 1860, in the city of New Orleans, La., and was by occupation a merchant.

In June, 1860, being in poor health, he left the said city with his family to go abroad for his health; while so abroad he resided with his family in Ireland from July, 1860, until September, 1865, when he returned to the United States with his family and resumed his former residence in New Orleans, where he continued to reside for about one year. Owing to continued poor health, he returned with his family to Ireland, where he died in May, 1872.

In October, 1872, his widow, the claimant, came with her children to reside in the city of New York. She now resides in Jersey City, State of New Jersey, and is a citizen of that State, and is the sole devisee of Cornelius Noonan.

II.

On the 11th day of March, 1863, the United States military forces took possession of, and occupied for a military prison, a certain three-story brick house, a first-class residence, containing 12 or 13 large-size rooms, belonging to said Noonan and being No. 48 Baronne street, in the city of New Orleans, La., lot No. 7, in square bounded by Baronne, Common, Gravier, and Phillipa streets, and the grounds connected therewith. Said premises remained in the occupation and wholly in the possession of the military forces of the United States up to the 4th day of May, 1866.

Said premises were taken possession of by one Capt. L. W. Perce, quartermaster U. S. A., of the defenses of New Orleans. The premises were turned over to Captain Armstrong by order of Gen. E. R. S. Canby, September 1, 1865, and by Captain Armstrong to Cornelius Noonan May 4, 1866.

III.

On said 11th day of March, 1863, said house and premises were in the possession of Raymond A. Bourk, as agent and attorney in fact of said Cornelius Noonan, and were in complete order and repair. A day or two after said premises were occupied by the military forces of the United States for a military prison Capt. L. W. Perce, aforesaid, called upon said Bourk to inquire about the rent to be paid by the Government for the use of said house and premises. Said Bourk informed Capt. Perce that he was willing to take \$75 per month therefor, payable monthly. Capt. Perce made no objections to these terms, and said Bourk supposed the matter was settled and agreed upon at \$75 per month. After the expiration of two months said Bourk presented a bill to Capt. Perce for the rent of said premises for two months, being \$150, and asked for payment as per agreement; Capt. Perce referred said Bourk to Capt. J. W. McClure as the party to whom application should be made for payment of rent; said Bourk made application to said Capt. McClure for payment, as directed, and subsequently repeated applications to said Capt. McClure, but no payment was made, although no objection was ever made as to the character of the bill.

From March 11, 1863, to May 4, 1866, a period of 3 years 1 month and 22 days, the said premises remained in the exclusive control, occupation, and possession of the United States military forces.

The reasonable rental per month of said premises was \$75 for the entire time the same was in the possession of said military forces, amounting to \$2,830.

The reasonable cost for repairing said premises in order to put the same in as good repair as at the time the said military forces took possession, over and above the usual wear and tear, was \$3,000, amounting in all to five thousand eight hundred and thirty dollars (\$5,830).

Filed January 30, 1888.

BY THE COURT.

A true copy.

Test this first day of February, A. D. 1888.

[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

[In the Court of Claims. December term, 1885. No. 48, Congressional case. Mary H. Noonan v. the United States.]

PETITION.

[Filed May 19, 1886.—J. R.]

To the Honorable the Court of Claims:

The petition of Mary H. Noonan, widow and sole devisee of Cornelius Noonan, deceased, late of the city of New Orleans, State of Louisiana, respectfully shows: That she is the sole devisee of her late husband, who departed this life on or about ———; that for some time prior to the war of 1861 claimant was residing with her said husband in the city of New Orleans, La., and that he was a citizen of the United States, and by occupation a merchant, and that he owned in said city a certain brick house and lot No. 7, upon which the same was situate and bounded as follows: Baronne, Common, Gravier, and Philippe streets, lot 26 feet 4 inches on Baronne by 109 feet deep.

That her deceased husband, being in poor health in the spring of 1860, placed his property in the hands of his attorney and agent, one R. A. Bourk, and some time in about June, 1860, left the city of New Orleans to travel in Europe with his family for his health, and that he resided in Ireland from July, 1860, to about October 1, 1865, and that during the period last above mentioned he did not leave Ireland.

That he became a citizen of the United States on or about the 24th day of May, 1852, by proceeding had in the third judicial district in the State of Mississippi.

That claimant and her said husband has at all times borne true allegiance to the Government of the United States, and did not in any way voluntarily aid, abet, or give encouragement to the rebellion, but was throughout that war loyal to the Government of the United States.

That on or about the 11th day of March, 1863, one Capt. L. W. Perce or Capt. J. W. McClure, for the United States, took possession of said brick house and lot on Baronne, etc., for and on behalf of the United States, and that said property was occupied by the military authorities of the United States up to the 11th day of July, 1865, a period of three years one month and twenty-two days; and that the reasonable rent for said property was \$75 per month, equal to \$2,830, and that the reasonable cost of repairs rendered necessary by reason of the occupation of said property by the United States was \$3,000, or total \$5,830.

That the said claim was presented to the military board in the city of New Orleans and that an allowance was recommended, and also that the building be repaired by the Quartermaster's Department, but was finally rejected and disallowed by Major-General Canby; that subsequently the claim was presented to the Quartermaster's Department, where it was also disallowed.

That claimant then caused the claim to be presented to Congress, where the same was pending from year to year, and finally was referred by the War Claims Committee of the House of Representatives to this court.

That no assignment or transfer of said claim, or of any part thereof or interest therein, has been made, except as stated in this petition.

Claimant prays that the petition dated July 5, 1865, and addressed to Maj. Gen. E. R. S. Canby and the exhibits thereto, and found on file with the papers in this case may be taken and made a part of this petition; also the affidavits of John Deveraux, Thomas S. Elders, John J. Poindexter, and A. R. Bourk, found also on file in this case, may be taken as a part of this petition; also affidavits of Peter R. Medemiss and Henry Howard, and the letter of W. B. Armstrong, Captain A. Q. M. Bureau, Ref. F. and A. L., La., also found on file as part of this case.

Claimant further says that she believes the facts as stated in the foregoing petition to be true.

MARY H. NOONAN,
Per P. E. DYE.

CITY OF WASHINGTON, D. C.:

P. E. Dye, being sworn, deposes and says that he is the attorney in this cause, and knows the matters stated in the foregoing petition, and that he believes the facts therein stated to be true.

P. E. DYE.

DISTRICT OF COLUMBIA, ss:

Subscribed and sworn to before me this 19th day of May, A. D. 1886.

[SEAL.]

G. W. BALLOCH, *Notary Public.*

REASSESSMENTS FOR LOCAL IMPROVEMENTS AND GENERAL TAXES IN THE DISTRICT OF COLUMBIA.

FEBRUARY 19, 1896.—Referred to the House Calendar and ordered to be printed.

Mr. RICHARDSON, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany H. R. 3281.]

The Committee on the District of Columbia have considered the bill (H. R. 3281) to authorize reassessments for improvements and general taxes in the District of Columbia, and for other purposes, and report same to the House with the recommendation that it do pass, with an amendment, striking out the last provision in the bill, including part of line 24 and all of lines 25, 26, 27, and 28, on page 2. The committee do not think the reassessments provided for in the bill should bear interest.

The necessity for this legislation is set forth in the letter of the District Commissioners to the chairman of the District Committee hereto attached. It is as follows:

OFFICE COMMISSIONERS OF THE DISTRICT OF COLUMBIA,
Washington, January 3, 1896.

DEAR SIR: The Commissioners of the District of Columbia have the honor to submit herewith a draft of a bill to authorize reassessments for local improvements and general taxes in the District of Columbia, and for other purposes, with request that you will cause the same to be introduced into the House.

The amount of revenue lost to the District for technical grounds through the rulings of the courts and the inability of the District authorities to reassess the charges so invalidated is so great as to threaten serious embarrassment to the municipal interests involved. Unless Congress shall interpose the legislation proposed in this bill or some other enactment to the same effect, the evil will not only continue, but will indefinitely expand. The Commissioners prepared and submitted to a former Congress a draft of a bill to provide for the reassessment of taxes and assessments judicially declared void for such technical errors, but that bill, which was retroactive as well as anticipatory, failed to receive the favorable action of Congress. Whatever hardship or embarrassment the proposed legislation might entail on property owners with regard to taxes and assessments heretofore judicially declared void, because of the bearing reassessment might have upon interests innocently acquired by owners succeeding to the property subsequent to such judgments, the Commissioners can imagine no reasonable objection in justice or equity to the enactment of the bill herewith transmitted, which is designed to provide against future losses, on similar grounds, of assessments and taxes to which the municipality may be justly entitled.

Very respectfully,

JOHN W. ROSS,
President Board of Commissioners District of Columbia.

Hon. J. W. BABCOCK,
Chairman Committee on the District of Columbia, House of Representatives.

CERTIFIED CHECKS IN LIEU OF BONDS.

FEBRUARY 19, 1896.—Referred to the House Calendar and ordered to be printed.

Mr. THOMAS, from the Committee on Expenditures in the Navy Department, submitted the following

REPORT:

[To accompany H. R. 4179.]

The Committee on Expenditures in the Navy Department, to whom was referred the bill (H. R. 4179) to amend section 3719 of the Revised Statutes, having carefully considered the same, respectfully submit the following report:

The Judge-Advocate-General, in his report for the year 1895, recommends the use of certified checks in lieu of bonds, and makes the following statement on page 15 of his report:

CERTIFIED CHECKS IN LIEU OF BONDS.

In my previous annual reports attention has been invited to the serious inconvenience sometimes occasioned by requiring bonds to accompany all contracts for furnishing naval supplies. It is well known that large dealers with whom the Department would find it advantageous to deal are frequently deterred from submitting proposals, where the quantity of supplies to be furnished is not great, in consequence of their reluctance to solicit the favor of personal suretyship or to enter into the elaborate formal obligations necessary to obtain corporations as sureties. The service thus loses the advantage of the competition which the appearance in the field of these large dealers would develop. The difficulty could be readily and satisfactorily met without prejudicing the interests of the Government by a provision authorizing the acceptance of certified checks in lieu of bonds in cases where such action is deemed by the Secretary of the Navy to be desirable.

Certified checks covering the full amount of the contract could be given without inconvenience by bidders of the class whose competition is especially desired, and such checks might very properly be accepted in lieu of the written guaranty required by law to accompany proposals for naval supplies, as well as in lieu of the bond for the faithful performance of the contract when awarded.

And the Secretary of the Navy, in his annual report for the year 1895, says:

CERTIFIED CHECKS.

I renew my previous recommendation that section 3719 of the Revised Statutes be amended so as to allow the Department to accept certified checks covering the entire amount of contracts in lieu of a guaranty and bond required by that section. In small transactions business firms frequently decline to bid on naval supplies because they do not consider the amount involved justifies them in furnishing the bonds required by law, and thus the Government fails to profit by the low prices which larger dealers can afford to offer.

In view of the foregoing statement of the Judge-Advocate-General and the recommendation of the Secretary of the Navy, your committee respectfully recommend that the bill do pass.

PAY INSPECTOR JOHN H. STEVENSON.

FEBRUARY 19, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CUMMINGS, from the Committee on Naval Affairs, submitted the following

REPORT:

[To accompany H. R. 2331.]

The Committee on Naval Affairs, to whom was referred the bill (H. R. 2331) for the relief of Pay Inspector John H. Stevenson, of the United States Navy, respectfully report that they have carefully considered the case and unanimously recommend the passage of the bill as amended, by striking out the word "empowered" in the fourth line and substituting the word "directed."

The records of the Government show that Mr. Stevenson entered the Pay Corps of the naval service September 19, 1862. He had previously served as a volunteer in the Army. He participated in many naval engagements, and was twice promoted by the President of the United States and the Senate "for eminent and conspicuous conduct in battle and extraordinary heroism." He rose regularly in rank until he became a pay inspector, and in February, 1893, he was ordered for examination for promotion to pay director. The board unanimously recommended him for promotion. The finding was disapproved. The second board also unanimously reported that Mr. Stevenson was in every way qualified for promotion, and so recommended. This finding was also disapproved and a third board ordered. This board also found Mr. Stevenson perfectly qualified for promotion and recommended that he be promoted. This finding was also disapproved and a fourth board was selected. The fourth board consisted of a line officer, a pay officer, and a surgeon—a selection without parallel in the history of the Navy. Officers examined for promotion had heretofore been examined by officers of higher grade in their respective corps. The fourth board found Mr. Stevenson professionally and mentally qualified for promotion, but refused to recommend him on the ground that he was not morally qualified. Upon this finding Mr. Stevenson was, under the law, placed upon the retired list at half pay.

Thus after four boards of examination, three of which recommended him for promotion, he was placed upon the retired list on the report of a fourth board, the majority of whose officers were not members of the Pay Corps. The inference is that if this fourth board had reported favorably the findings would have been disapproved, and that a fifth, and even a sixth board might have been ordered.

The object of the pending bill is to give Mr. Stevenson the pay of an honorably retired officer. To this he seems to be fully entitled. Those who know him best say that he is a temperate man, correct in his

habits, and honorable in meeting his obligations. The committee adds a brief publication of his record taken from official documents on file in the Navy Department and certified to by its chief clerk under date of March 28, 1871.

Record of Paymaster John H. Stevenson, United States Navy, during the war of the rebellion.

John H. Stevenson was appointed acting assistant paymaster September 19, 1862, attached to the U. S. S. *Satellite*, 1862-63, and was in the first battle of Fredericksburg (on land) with Hooker's Division.

In December, 1862, it was observed, from the deck of the *Satellite* that the enemy was making signals across the Rappahannock. The commanding officer of the *Satellite* was about to shell the party, but refrained from doing so at the earnest solicitation of Paymaster Stevenson, who stated he would capture the whole party, apparatus, etc., on the succeeding night, which was done as follows: Two boats' crews left the vessel, under command of Paymaster Stevenson, went ashore, captured the party, and broke up the station. While ashore Paymaster Stevenson ascertained that Capt. Charles Lawson, of the Fifty-fifth Virginia (rebel) Cavalry, had opened a recruiting station about 10 or 12 miles back from the river. The party, after anchoring the boats a short distance from shore and leaving two boat keepers in each, started for the recruiting station. The enemy had cavalry pickets out, but the party got safely through, broke up the station, captured Captain Lawson, and brought him safely on board the U. S. S. *Satellite*, from whence he was sent to the old Capitol prison at Washington.

The commanding officer of the *Satellite* states as follows:

"To the bravery and energy of Acting Assistant Paymaster Stevenson the success of the expedition was due. Mr. Stevenson frequently volunteered his services for other hazardous duty, and always performed it to my entire satisfaction."

Rear-Admiral Andrew A. Harwood, United States Navy, states as follows:

"I perfectly remember your capture of a rebel recruiting officer (Captain Lawson) while you were attached to the flotilla then forming part of my command. Your gallant conduct on that occasion, and in frequently volunteering your services for other hazardous duty, was recognized at the time by your immediate commanding officer, whose letter is on record at the Department. Your services on other occasions, and especially at Donaldsonville, eclipse your earlier exploit; it deserves a place, however, on the list of your gratuitous patriotic services."

In June, 1863, the U. S. S. *Princess Royal* was lying off Donaldsonville, La., at the mouth of Bayou La Fourche, for the protection of the town and a small fort called Fort Butler, which was manned by 125 sick and convalescent soldiers. This was the only fortified position then held by the Union forces between Port Hudson and New Orleans. The great importance, *necessity* indeed, of holding the position was self-evident. The rebel generals, Taylor, Mouton, and Green, with a force it is believed of 10,000 men under their command, sent in a demand for the surrender of the fort and town, which demand was refused. They then sent to notify the commandant to have the women and children removed from the place. Paymaster Stevenson, recognizing the great importance of holding the place, and the extreme improbability of the Union forces being able to do so unless fighting under some great advantage, went as a spy into the enemy's camp, in the rôle of a refugee from New Orleans. In doing so, as he was acting entirely on his own responsibility, he was obliged to run through the Union pickets, and narrowly escaped being shot in so doing. He, however, got safely through, entered the enemy's camp, ascertained where and how the enemy was to make the attack, and returned with the information to Capt. M. B. Woolsey, United States Navy, commanding U. S. S. *Princess Royal*. In returning he was obliged to run the enemy's pickets, and again narrowly escaped being shot. The information obtained by Paymaster Stevenson, in conjunction with the heroic bravery of the defending party, was undoubtedly the means of saving the place. The enemy was beaten off after a fierce conflict of four hours, with an acknowledged loss of 1,500 men in killed and wounded.

Knowing just where and when the enemy was to make the attack, the guns of the *Princess Royal* and the fort were loaded with grape and canister, and trained upon the point from whence the advance was to take place. When the attack was made (as it was at the precise time and in the exact direction indicated by Paymaster Stevenson) the enemy were mowed down like grass, and the result, after a bloody and prolonged fight, was a signal victory for the Union arms. Capt. M. B. Woolsey states as follows:

"For this information I am indebted to A. A. Paymaster Stevenson, who was out for three days on his own horse, and sometimes on foot, reconnoitering in and about the enemy's camp."

On the night of July 9, 1863, U. S. S. *New London* was sent down the river by Captain Woolsey, United States Navy, senior officer present, with important dispatches for Admiral Farragut, at New Orleans, and orders to force her way through, if possible. In regard to this case, Captain Woolsey states as follows:

"On the morning of the 10th July (1863) I received a message that the U. S. S. *New London*, which had been sent down the river during the night, with important dispatches for Admiral Farragut, was aground near College Point, some 12 miles below; that she was disabled and under the enemy's fire, and her officers and crew behind the levee. I sent to the telegraph station, but found that the wires had been cut; then before going down to the assistance of the *New London* I landed A. A. Paymaster Stevenson, with orders to go down behind the levee to the *New London*, get the dispatches from Lieutenant Commander Perkins, fasten a bit of lead around them, and, if possible, to proceed down to New Orleans with them, to seize horses as he wanted them, and to dash through the enemy's pickets and suspicious places with all speed, but, if surrounded by the enemy, to pitch the dispatches into the river. The cheerfulness with which Mr. Stevenson *volunteered* to perform this hazardous duty, and the energetic and successful manner in which he performed it, would certainly have been noticed by the Government had my report in which the circumstances were stated been received. The distance performed by A. A. Paymaster Stevenson was 85 miles, and through the enemy's country."

Admiral D. G. Farragut, United States Navy, also testifies as follows:

"I distinctly remember that this officer was very active and energetic in conveying dispatches on the Mississippi River in 1863, and I therefore cheerfully indorse his conduct during that period (as set forth by his commanding officer), and consider him well entitled to Government recognition."

Admiral David D. Porter testifies:

"General Sherman had not heard of the capture of Fort Fisher, and I supposed he might march down on Fort Fisher and leave the main road when he ought to connect with General Grant's army. I called for volunteers to carry dispatches through the enemy's country. Mr. Stevenson volunteered and carried the dispatches safely to General Sherman, through the enemy's country, at the risk of his neck; for, had they caught him they would have hung him."

He was, also, in all the battles and skirmishes on the Potomac and Rappahannock rivers, from November, 1862, to April, 1863; on the Mississippi River, from June, 1863, to September, 1863; all the fights on the James River during the last year of the war, and at the capture of Petersburg and Richmond.

NAVY DEPARTMENT, *March 28, 1871.*

The extracts cited in the foregoing statements of Paymaster Stevenson are correct, as shown by comparison with the official documents on file in this Department.

HOLMES E. OFFLEY, *Chief Clerk.*

In June, 1870, the President of the United States, by and with the advice and consent of the Senate, advanced Paymaster John H. Stevenson fifteen numbers in his grade, "for extraordinary heroism."

Not deeming him sufficiently rewarded for all his services, the President of the United States, by and with the advice and consent of the Senate, on April 30, 1879, again advanced Paymaster John A. Stevenson fifteen numbers in his grade, "for gallant and conspicuous conduct in battle, and extraordinary heroism." Paymaster John H. Stevenson was promoted to pay inspector January 18, 1881.

MARTHA McNEIL.

FEBRUARY 19, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CROWTHER, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 2844.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2844) granting a pension to Martha McNeil, submit the following report:

John McNeil, who was the husband of the beneficiary of this bill, was mustered into the United States service as colonel of the Third United States Reserve Corps, Missouri Volunteer Infantry, and was mustered out August 17, 1861. He was mustered in as colonel Second Missouri State Militia Volunteer Cavalry, April 26, 1862, and was promoted to brigadier-general May 13, 1863, and from that time on he was actively engaged in suppressing guerrilla bands and encouraging the loyal citizens, and by his untiring efforts succeeded in preserving the State of Missouri to the Union. His resignation, which was tendered April 3, 1865, was accepted to date April 12, 1865. In it he said:

I beg to state that my reason for resigning is that, having been for nearly four years in constant service, I have suffered to such an extent in my pecuniary affairs that my longer continuance in the service threatens me with financial ruin and my family with beggary.

He was a pensioner for gunshot wound of right hip until his death, which occurred on June 8, 1891.

The widow, who was married to the soldier on September 28, 1834, is now 79 years of age, is disabled on account of age and its attendant infirmities, and, as is shown by the evidence before this committee, has an income of only \$284.60 per annum, which in her aged and disabled condition is totally inadequate to her needs.

Your committee therefore recommend that the bill do pass.

Appended is a memorial of the commandery of the Loyal Legion for the State of Missouri, which fittingly describes the valuable services to his country of the gallant officer, Gen. John McNeil.

[Circular No. 16, series of 1891, whole No., 79.]

MILITARY ORDER OF THE LOYAL LEGION OF THE UNITED STATES,
HEADQUARTERS COMMANDERY OF THE STATE OF MISSOURI,
St. Louis, November 7, 1891.

At a stated meeting of the commandery, held at the Laclede Hotel, St. Louis, on the above date, the following memorial was unanimously adopted:

IN MEMORIAM.—GENERAL JOHN M'NEIL.

On the 8th day of June, 1891, John McNeil, brevet major-general United States Volunteers and companion of the Military Order of the Loyal Legion, entered into

rest. After a long and patriotic career he died in the fullness of years, respected and lamented. In honor of his memory his companions of the Missouri Commandery erect this memorial.

No man ever loved his country more ardently than John McNeil. In days that were darkest and amid trials that were sorest, he was from first to last the noncompromising defender of her integrity, and so closely linked together were his loyalty and his appreciation of duty, that between them neither policy nor expediency ever found a middle ground.

John McNeil was born of American parentage in Halifax, Nova Scotia, on the 4th day of February, 1813. After receiving a common-school education he learned the trade of a hatter, in Boston, Mass., at the age of 16, and three years later he was president of the Mechanics' Apprentice Library Association. In 1832 he removed to New York and entered into copartnership with his father, and also became, while a resident of that city, a member of the famous New York Seventh Regiment. He settled in St. Louis in 1836, first taking a position in the employ of a Mr. McKee, and subsequently setting up for himself in the retail, and afterwards, upon Main street, in the wholesale hat business. In 1844-45 he was a member of the Missouri legislature, and from 1855 to 1861 was president of the Pacific Insurance Company. From the time of his settlement in St. Louis to the breaking out of the war he continued, however, to prosecute the business of a wholesale hat merchant.

On the 18th of May, 1861, he abandoned his business and entered the military service of the United States as colonel of the Third United States Reserve Corps, Missouri Volunteers. During April and May he was engaged in organizing the regiment at Turner Hall, and on the 10th of the latter month participated in the capture of Camp Jackson. On July 16 and 17 he was engaged in the capture of Fulton, Mo., and in the defeat of General Harris. After serving as post commander and provost-marshal of St. Louis until August, 1861, he was, on the 10th of that month, mustered out of service.

On the 7th of the following December, he reentered the service as colonel of the Second Missouri (cavalry) State Militia. He engaged in actions of Walkerville, Mo., April 2 and 14, 1862, and on June 4 was assigned to the command of the district of northeast Missouri, with headquarters at Palmyra. He was in action against the enemy on June 26, 1862, and from July 28 to August 6 operated in the campaign against Porter's guerrillas in northern Missouri, engaging them at Whalleys Mills, August 1, and in the battle of Kirksville, August 5 and 6, where Porter's command of 3,000 men were dispersed. He was also in actions at Stockton, August 6, Bragg's Farm, September 13; and Shelbourne, September 15. On the 23d of October he was assigned to the command of the eighth military district of Missouri, and engaged in operations in Lewis, Clark, Scotland, and Schuyler counties.

On the 29th of November, 1862, he was commissioned a brigadier-general "for gallant services north of the Missouri River." From December, 1862, to May, 1863, he operated against guerrillas in southeastern Missouri, being in action at Bloomfield, March 1; in the expedition from that place, March 9 to 15; in command at Cape Girardeau, in April; in command against Marmaduke and pursuit from Cape Girardeau to Chalk Bluffs, Arkansas, April 17 to May 2; engaging in actions at Cape Girardeau, April 26; Jackson and near White River, April 27; Castor River, April 29; Bloomfield, April 30; and Chalk Bluffs, on St. Francis River, May 1 and 2.

From July 15 to October 19, 1863, he commanded the district of southwestern Missouri, with headquarters at Springfield. He was in the campaign against Shelby, from September 22 to October 26, being in action at Humansville, October 16, and Buffalo Mountain, October 24.

On the 29th of October he was assigned to command the district of the Frontier Department of Missouri. From March to August, 1864, he commanded the district of Lafourche, Department of the Gulf, and subsequently (until September) the district of Rolla, Department of the Missouri.

On the 6th of October he was assigned to the command of the second brigade of the forces at Jefferson City, Mo., and operated against Price in his invasion of the State from September 24 to October 26, participating in the repulse of Price's attack on Jefferson, October 6 and 7; in actions at Brownsville, October 9 and 11; Little Blue, October 21; Independence, October 22; Big Blue, October 23; Coldwater Grove, October 24; Marias des Cygnes and the rout of Price's army, October 25.

From October, 1864, to April, 1865, he commanded the district of central Missouri, and on the 12th of the latter month he resigned and was honorably mustered out of the service, having been on the same day brevetted a major-general of volunteers, "for gallant and distinguished services during the war of the rebellion."

Thus for four long, bitter years, unallured by those grander and more brilliant campaigns which were heaping honors upon other men, did this brave soldier stand at his post of duty, and thus in the arena of a fierce and merciless border warfare did he battle against the forces which vainly struggled to wrest the great State of Missouri from her allegiance.

The importance of this work and the value of these services can only be estimated in the light of the disastrous results which must have followed the successful occupation of this great strategic section of the country by the powers of the rebellion. No more enduring monument can be builded to the honor of our deceased companion than the page of history which will record that he was one of the leaders whose untiring energy saved this imperial State from the calamity and the crime of secession.

At the conclusion of the war General McNeil settled in St. Louis, and was soon appointed clerk of the criminal court. In 1866 he was elected sheriff of St. Louis County (then including the city of St. Louis), which office he held until 1871. He was a Centennial Commissioner from 1872 to 1876, also a United States Indian inspector until 1882. During 1883, and until June, 1885, he was chief inspector of United States customs. In 1887 he was assistant adjutant-general of the Grand Army of the Republic, Department of Missouri, and in 1890 was appointed to a position of trust in the St. Louis post-office. Although in apparent health, he died suddenly while in the discharge of his official duties.

It is a pleasure to record that as a citizen in the private walks of life General McNeil was modest in deportment and always courteous in address. Well-read, especially in historical literature, he was an interesting conversationalist, and rarely inaccurate in marshaling argumentative data. Despite adverse circumstances of fortune, he was cheerful, unobtrusive, free from jealousy, and neaver happier than in the society of his old comrades of the war, to whom he was devotedly attached. Beneath a natural ruggedness of character, and a crisp, stern manner of speech, he had a warm and tender heart, which often found expression in illy concealed emotion.

His consideration of the complex questions which grew out of the war was tempered by an earnest desire to eradicate the bitterness which four years of strife had engendered, and to create in the new life of the country a patriotism which should universally pervade the hearts of the American people.

In grateful appreciation of his services for the preservation of the Union, the commandery of the State of Missouri enters this memorial upon its records, with instructions to the recorder to transmit a copy to the family of the deceased.

CHAS. E. PEARCE, Chairman.

NELSON COLE.

THOS. WRIGHT.

Committee.

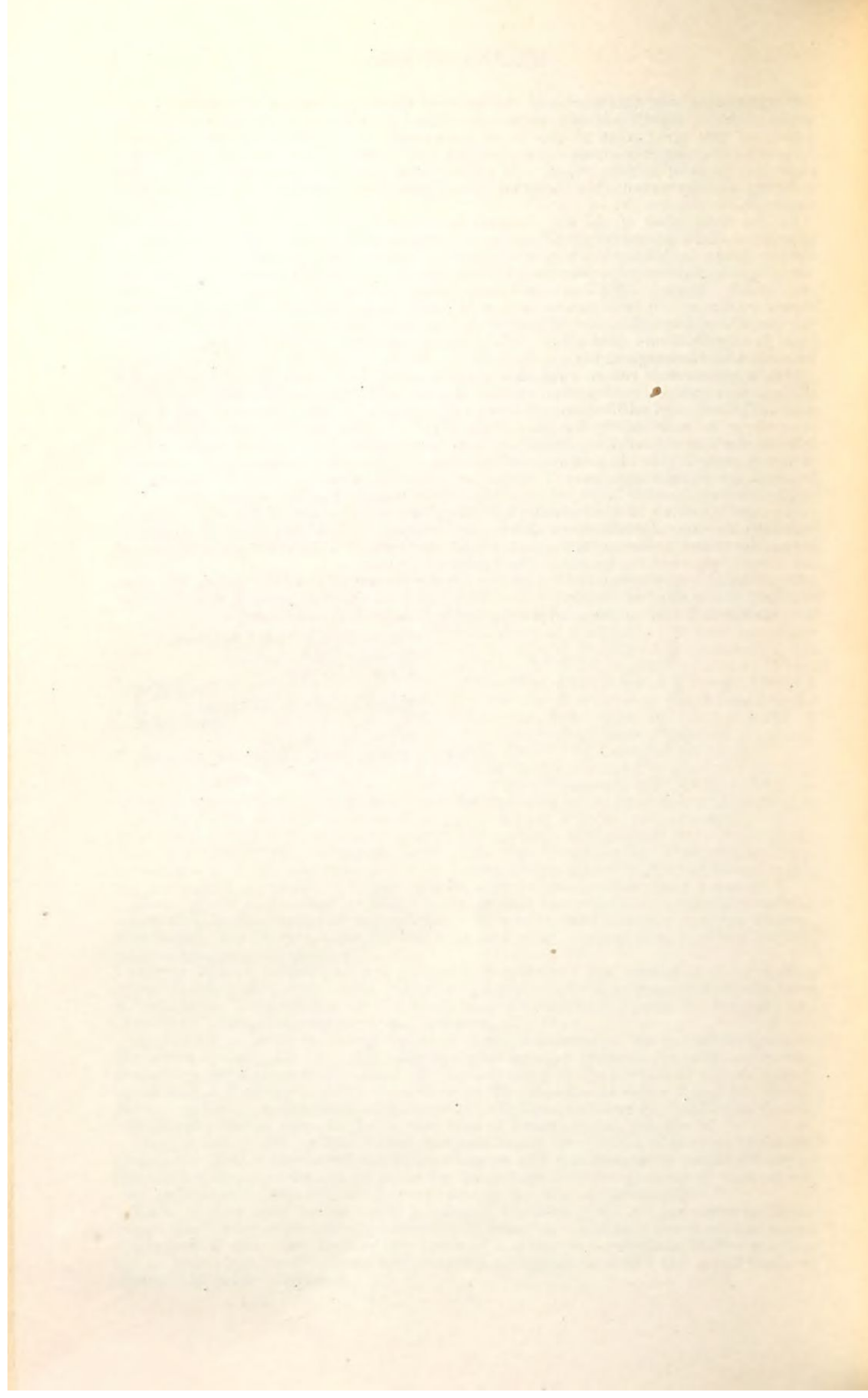
Major JAMES G. BUTLER,

Commander.

W. R. HODGES,

Captain United States Volunteers, Recorder.





ANN CATHERINE HULL.

FEBRUARY 19, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ERDMAN, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 1734.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1734) to increase the pension of Ann Catherine Hull, respectfully submit the following report:

The beneficiary of this bill is the widow of Commodore J. B. Hull, who was appointed a midshipman in the United States Navy November 9, 1813, and was in active service continuously until July 16, 1862, when promoted to commodore and placed on the retired list. October 29, 1864, he was assigned to duty as commander of the navy-yard at Philadelphia, Pa., until January 1, 1866, when detached. He remained on the retired list, except when assigned to some special duty, until January 17, 1890, when he died at Philadelphia, Pa., having been in the United States naval service seventy-seven years.

Evidence has been presented to this committee which shows that the widow has only \$240 per annum income, including her pension of \$12 per month as a widow of a veteran of the war of 1812; that she is 62 years of age, in failing health, and that her income is not sufficient for her needs.

In view of these facts, the committee recommend that the bill do pass. Appended is a statement of the service of Commodore J. B. Hull.

DEPARTMENT OF THE NAVY,
Washington, D. C., January 10, 1896.

SIR: In reply to your letter of the 7th instant, I have the honor to inform you that the following is the record of service of the late Commodore J. B. Hull, United States Navy:

Appointed a midshipman, November 9, 1813; to the *Congress*, January 12, 1814; detached and to the *Washington*, January 23, 1816; ordered to report to Captain Hull for duty, September 21, 1819; ordered to the *Franklin*, June 13, 1821; promoted to lieutenant, January 13, 1825; granted leave of absence, June 6, 1825; to the *Constellation*, October 10, 1825; granted leave, November 1, 1827; to the *Guerriere*, December 4, 1828; detached and to the navy-yard, Washington, D. C., December 16, 1831; detached and granted leave, October 1, 1833; to the *Potomac*, August 6, 1834; detached and granted leave, March 8, 1837; member of a board, May 5, 1835; to the receiving ship at Boston, October 19, 1837; promoted to commander, September 8, 1841; detached and wait orders, September 25, 1841; to command the *Warren*, July 6, 1843; detached and leave of absence, March 7, 1848; to command the *Rendezvous* at Philadelphia, November 1, 1849; detached and wait orders, November 1, 1851; one year leave abroad, June 4, 1852; promoted to captain, September 14, 1855; to command the *St. Lawrence*, September 20, 1856; detached and granted leave, May 11, 1859; to command the *Savannah*, May 22, 1861; detached and wait orders, September 18, 1861; to special duty at St. Louis, May 16, 1862; promoted to commodore on the retired list, July 16, 1862; detached and to command the navy-yard, Philadelphia, October 29, 1864; detached and wait orders, January 1, 1866; president of board of examiners, November 27, 1866; board dissolved, July 8, 1867; inspector of First light-house district, October 2, 1869; detached and wait orders, October 1, 1870; died at Philadelphia, Pa., January 17, 1890.

Very respectfully,

F. M. RAMSAY, *Chief of Bureau.*

Hon. HENRY H. BINGHAM, M. C.,
House of Representatives, Washington, D. C.

JOHN KEHL.

FEBRUARY 19, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. LAYTON, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 1261.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1261) for the relief of John Kehl, having carefully considered the evidence on file with the case, report as follows:

John Kehl, private, Company D, Ninth Wisconsin Volunteer Infantry, enlisted April 22, 1861, and was discharged January 30, 1866, after serving more than four years and nine months. June 30, 1886, he filed a declaration alleging rheumatism contracted in the service, established it by both medical and lay testimony, and on February 25, 1888, was granted a pension at \$8 per month for rheumatism and resulting disease of heart. He was increased to \$30 per month from May 29, 1888, for rheumatism and resulting disease of heart, and resulting locomotor ataxia. On April 8, 1892, a reissue was made to reduce his pension to \$8 per month for rheumatism and resulting disease of heart and to drop locomotor ataxia, which was said by the medical referee to have been erroneously accepted as the result of rheumatism. A slip of the medical referee, attached to the Pension Office brief of the case, says:

The medical certificates show clearly that syphilis is the principal if not the sole factor in this man's disability, and that all doubts are amply covered by the allowance of \$8 per month.

The assumption of the medical referee that the locomotor ataxia was due to syphilis, and not to causes arising in the service, seems to be completely overthrown by the report of a medical examination made May 9, 1894, by the board of United States surgeons at Cincinnati, Ohio. The examination was made under special instructions from the Pension Office to determine whether syphilis was the cause of locomotor ataxia, and concludes as follows.

In spite of the most painstaking examination, according to special instructions, we can not find any evidence of syphilis on skull, hair, skin, tibia, or other bones, mucous membrane, brain, heart, lungs, or other viscera and glands. It is the unanimous opinion of this board that claimant's locomotor ataxia is the result of exposure to wet and cold and rheumatism, not of syphilis. Wholly disabled for manual labor
* * * needs the regular and constant personal aid and attention of another person.

Your committee are of the opinion that the evidence shows conclusively that claimant's helpless condition is not due to his own vicious habits, but is due to the cause which has once been admitted by the Pension Office, and they therefore recommend that the bill do pass.

MIRIAM V. KENNEY.

FEBRUARY 19, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WOOD, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 3937.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 3937) granting a pension to Miriam V. Kenney, widow of Samuel W. Kenney, submit the following report:

The evidence in this case discloses that Miriam V. Kenney was the lawful wife of Samuel W. Kenney, and has remained his wife since his death.

Samuel W. Kenney was employed and paid by and under direction of Gen. James S. Negley, commanding a division of the Army of the Cumberland, as a spy to seek information of the Confederate army, its position and intentions, and in January, 1863, he went into the Confederate lines, under the above authority and for the above purpose, and while on such duty was captured by the Confederates, tried and convicted as a spy, and was hanged as a spy at Tullahoma, Tenn., February 13, 1863.

The evidence in this case is voluminous, and considerable portion of it is from Confederate archives, including the record of the court-martial which tried and convicted Kenney. Letters from General Negley have also been considered by the committee. There is no controversy or contradiction in the above facts nor that Kenney was from the first a Union man.

The claimant applied for a pension, which was rejected on the ground that Samuel W. Kenney was not in the military or naval service of the United States.

Your committee recommend that the bill be amended by striking out the last two lines, and that as amended the same do pass.

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MARY F. DAVENPORT.

FEBRUARY 19, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. POOLE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 75.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 75) granting a pension to Mary F. Davenport, widow of Dudley Davenport, submit the following:

Dudley Davenport was a first lieutenant of the revenue cutter *Caleb Cushing* during the late war of the rebellion. The evidence examined by your committee includes a letter from the Secretary of the Treasury dated April 21, 1893, which says:

The records of the Department show that the revenue cutter *Cushing* was captured by a Confederate privateer in Portland Harbor, Maine, on the night of the 26th of June, 1863. She was at the time in command of Lieutenant Davenport, Captain Clark who had been in command having died on that date in the city of Portland.

The *Cushing*, with the other vessels of the service, was under orders by the President dated June 14, 1863, to cooperate with the Navy in arresting rebel depredations on American commerce, etc.

At the time of the capture of the *Cushing* by the rebel privateer, great cruelty was shown Lieutenant Davenport by his captors, it being known to them that he was a native of Georgia, who had remained loyal to the Union; that his life was threatened and he was placed in irons. That armed vessels of the United States pursued the privateer and the *Cushing*, and that finally Lieutenant Davenport and his crew were placed in small boats and abandoned in midocean, and the *Cushing* blown up.

As part of the evidence in this case is a letter to Lieutenant Davenport from Hon. S. P. Chase, Secretary of the Treasury, dated July 14, 1863, which says, in part:

I am pleased to say that your conduct while a prisoner on the cutter *Cushing* in refusing to furnish any information whatever to her rebel captors meets my most cordial and unqualified approval.

The evidence presented in this claim shows conclusively that before and up to the capture of the *Cushing* by the rebel privateer, that Lieutenant Davenport had been an exceptionally strong and hearty man, but that the mental strain and anxiety, together with personal abuse received at that time, produced a very marked change in him. Melancholia was developed, which soon resulted in insanity, and that he was confined in an asylum at New Rochelle, N. Y., and afterwards at Utica, N. Y., where he died May 9, 1869. Affidavits of well-known citizens of Oswego, N. Y., where he resided, are exhibited, which show that from the time of his arrival home, after the capture of the *Cushing*, about July 15, that he was undoubtedly insane.

Mary F. Davenport, the wife of Lieutenant Davenport, made application to the Commissioner of Pensions for a pension as the widow of Dudley Davenport, alleging that his death was the direct result of the hardship, suffering, mental strain, and exposure endured at the time of the capture of the *Cushing* by the rebel privateer on the 26th of June, 1863.

The claim was rejected July 19, 1890, "On the ground of no existing law granting pensions to widows of officers who served in the Revenue-Marine Service."

There is no dispute about the facts in this claim, and as all the evidence goes to show that the mind of Lieutenant Davenport became shattered ending in total insanity and death, all resulting from the capture of the vessel commanded by Lieutenant Davenport by an armed vessel of the enemy. There is no equitable reason why the relief sought for in this bill should not be granted. It further appears from the testimony that Mary F. Davenport was married to Lieutenant Davenport on the 9th day of July, 1862; that she is entirely destitute and has been for several years partially blind, having to remain in a darkened room a large portion of the time, and that she is now dependent for her support upon the bounty of friends, and that she has no children.

Considering all the evidence in this claim, which evidence is from the leading citizens of Oswego, N. Y., as well as physicians of the asylum where said Davenport was confined, and the documentary evidence furnished by the Government, your committee believe that this is a case where special legislation only can afford relief that seems to be just, and therefore recommend the passage of the bill H. R. 75 with an amendment striking out the word "fifty" in last line and inserting "twenty-five."



HARRIET WOODBURY.

FEBRUARY 19, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SULLOWAY, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 1299.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1299) to pension Harriet Woodbury, having carefully considered the same, respectfully submit the following report:

The petitioner was formerly the widow of Aaron G. Firman, who served in Company I, Seventh Vermont Volunteers, from November 26, 1863, until his death in the service, October 2, 1864; the widow was pensioned from the death of the soldier to July 14, 1866, when she again married; pension was then paid to a minor child of soldier until October 29, 1880, when he became 16 years of age, since which date no pension has been paid. These facts are shown by the records of the Pension Bureau.

The petitioner, Harriet Woodbury, of Windsor, Vt., testifies that after her marriage to Samuel H. Woodbury she was compelled to go out to labor to support herself and invalid husband, and that he lingered along until July 26, 1886, when he died of cancer; that since his death she is left without any means, and is now obliged to earn her subsistence by laboring at 25 cents per day, and that such remuneration is all the income she has.

Samuel H. R. Emery, of Bartonville, Vt., corroborates the above, and testifies that the petitioner's husband (Woodbury), while apparently healthy when she married him, was afterwards afflicted with cancer, and that the petitioner had to labor for their support; that Mr. Woodbury died in 1886, leaving his widow without means, and that she now labors for her daily bread, and hardly earns enough for a support.

Similar bills were favorably reported in the Fifty-second and Fifty-third Congresses, but died on the Calendar.

Your committee recommend that the bill be amended by adding to line 8 the words, "and pay her a pension of \$12 per month;" and that as amended the bill do pass.

HEIRS OF ASA CHILSON, DECEASED.

FEBRUARY 19, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. OTJEN, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 6210.]

The Committee on War Claims, to whom was referred the bill (H. R. 6210) for the relief of the heirs of Asa Chilson, deceased, submit the following report:

The bill, to quote its language, is as follows:

That the Secretary of War be, and is hereby, authorized and directed to cause to be investigated by the Quartermaster's Department of the United States Army the alleged taking by the United States authorities, for the use of the United States troops, and the destruction and appropriation of property by the authority of the same, during the year eighteen hundred and sixty-five, belonging to Asa Chilson, now deceased, who was at that time a resident of Anson County, North Carolina, near the village of Lilesville; said property having been destroyed, taken, and appropriated on the premises of the said Asa Chilson at his residence in Anson County, and also at or near another property owned by the said Asa Chilson in said county, about twelve miles from Old Hundred, and also on the premises of one Mial Wall, in Richmond County, North Carolina, about six miles from Rockingham, and certain other property of the said Asa Chilson taken, appropriated, and destroyed in North Carolina and South Carolina. Such investigation to extend to the title of the property and the incumbrances thereon, the status of the owner, whether loyal or not, the value of the property destroyed, the circumstances of the destruction, and by whose direction, authority, or permission it was destroyed. And when such investigation shall be completed the Secretary of War shall report the result thereof, with his recommendation thereon, to Congress for action in the premises.

The claim is for the destruction, appropriation, and conversion of claimant's property in North Carolina by United States military authorities during the late war for the suppression of the rebellion. Briefly stated, the facts in the case are as follows:

Mr. Asa Chilson was engaged in the South at the beginning of the late war as a bridge builder, and was the owner of a large sawmill and plantation near Wadesboro, N. C. Mr. Chilson did a large and prosperous business at such place; that all the improvements made by him thereon were in excellent condition. His property was taken, used, and destroyed by Union troops.

Of Mr. Chilson's loyalty there can be no question. He was born and brought up in the State of Massachusetts. During the late war he gave shelter and aid to many Union soldiers.

The losses sustained by Mr. Chilson were not the result of accident or inadvertence, but were indirectly and wholly due to the deliberate purpose of the United States military authorities.

It seems to your committee that an investigation by the Secretary of War, or under his direction, is a matter of necessity before intelligent

action can be had upon this case. The history of the transaction is susceptible of proof, and while this is true, the committee desire the benefit of such proof outside of the ex parte statements of the claimants and their friends. If claimants have a just claim, it ought to be paid, and there is no reason why the proper facilities should not be afforded them to establish its validity.

Mr. Chilson died shortly after the war, and his heirs did not file their claim in the War Department or before the Southern Claims Commission, as they were ignorant of the requirements of the law.

Your committee report back the bill and recommend its passage with the following amendments:

In lines 8 and 9 strike out "year eighteen hundred and sixty-five" and insert in lieu thereof "late war for the suppression of the rebellion;" and in line 15 strike out "said" and insert in lieu thereof "Rowan;" and in line 15 strike out "about twelve miles from Old Hundred" and insert in lieu thereof "in said State about one and one-half miles from Salisbury and at or near Old Hundred, Richmond County, in said State;" and in line 14 strike out "property" and insert "plantation."



AMENDING CHAPTER 67, VOLUME 23, STATUTES AT
LARGE.

FEBRUARY 19, 1896.—Committed to the Committee of the Whole House on the state
of the Union and ordered to be printed.

Mr. FENTON, from the Committee on Military Affairs, submitted the
following

REPORT:

[To accompany H. R. 4575.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 4575) to amend chapter 67, volume 23, of the Statutes at Large of the United States, having considered the same, report the bill back to the House with a recommendation that it do pass.

The primary object and aim of all legislation should be toward exact and impartial justice, at least so far as statutory enactments can effect such results. House bill No. 4575 is a step in that direction.

A period of thirty years almost equals the average life of a generation, and few are able to fully round out such a period in any service. Such as have been thus faithful in any line of service are justly entitled to the honorable meed of praise, but when they have served their country in either the Army or Navy for a period of thirty consecutive years, and have been honorably retired from such service, the remainder of their lives should be surrounded by as many of the comforts of life as may be reasonably possible.

The purpose of the law of 1885, and the amendment thereto of 1890, was to secure these results, but by the passage of this bill all ambiguity of prior legislation toward this end will be removed.

Under existing law the class designed to be benefited by this bill are clearly entitled to something which is not so clearly defined as would seem necessary, and the passage of this bill is therefore required in order that this class may obtain what previous legislation intended them to receive.

Many of these men not only served through the war of the rebellion, but after that followed Custer, Crook, Miles, and others in the Indian campaigns on the frontier. This latter service was equally as hazardous as the war of the rebellion, and has left most of these gallant soldiers mere physical wrecks, unfitted for duty in any line of service, who must depend upon the Government for support.

The Government Departments are closed against them, for the most part, especially on the ground of their lack of a bona fide citizenship; but how could this be otherwise when their country calls them to all parts of its wide domain.

They can not all go to the Soldiers' Home, nor is it desirable that they should, for they have earned the right to have a comfortable home, by long and arduous service, among their friends and kindred, if they shall so desire.

Officers of the various grades, upon retirement, have ample allowances for their support, and no one will question that this is rightfully bestowed, for they are clearly entitled to what they receive, and so the enlisted men ought to be provided for after thirty years of continuous service, which House bill 4575 aims modestly to do. The bill gives him, upon retirement, 75 per cent of his pay and allowances while in active service, and \$7.50 per month as commutation of quarters. Certainly this is a small sum to ask for at the hands of a great government, but it means much to the infirm and in many cases battle-scarred private soldier, who has followed the flag in the line of duty for thirty consecutive years, until he has indeed become "weary and old with service," and has earned the right of rest and a modest home.

The beneficiaries of this bill can not be pensioned, nor are they eligible to admission into the Soldiers' Home.

For the reasons herein assigned, the committee are unanimous in the opinion that this bill should pass.



BALTIMORE CENTENNIAL ASSOCIATION.

FEBRUARY 19, 1896.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. DALZELL, from the Committee on Ways and Means, submitted the following

REPORT:

[To accompany H. R. 1972.]

The Committee on Ways and Means, to whom was referred the bill (H. R. 1972) in aid of the exposition to be held under the auspices of the Baltimore Centennial Association, and for other purposes, have had the same under consideration, and now report it with a recommendation that it do pass, with certain amendments, as follows:

On page 1 strike out all after the word "sea," in the first preamble, down to the word "therefore," viz, the words "and whereas it is desired to make this exposition of a national and international character, so that all the nations of the world may participate."

On page 2, section 2, line 10, strike out the word "importation," and in lieu thereof insert the word "withdrawal."

On page 2, section 3, line 2, insert after the word "thirty" the word "three."

Add section 4, as follows:

The United States shall not in any manner nor under any circumstances be liable for any of the acts, doings, proceedings, or representations of the said Baltimore Centennial Association, a corporation under the laws of the State of Maryland, its officers, agents, servants, or employees, or any of them, or for any subscriptions to the capital stock, or for any certificates of stock, bonds, mortgages, or obligations of any kind issued by said corporation, or for any debts, liabilities, or expenses incidental to the exposition.

EXTENDING THE TIME FOR PUBLIC-LAND SUITS.

FEBRUARY 19, 1896.—Ordered to be printed.

Mr. LACEY, from the Committee on the Public Lands, submitted the following

R E P O R T:

[To accompany H. R. 5474.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 5474) extending the time for public land suits, submit the following report:

Your committee report the bill favorably, but deem two amendments necessary to carry out fully the purposes of the bill.

Amend as follows:

After the word "patents" in line 8 of section 1, add the following words "and the limitations of section eight of chapter five hundred and sixty-one of the acts of the second session of the Fifty-first Congress and amendments thereto is extended accordingly as to the patents herein referred to."

The bill has been reprinted with the amendments above inserted.



MRS. MARY E. WYSE.

FEBRUARY 19, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COFFIN, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 4913.]

The Committee on Pensions, to whom was referred the bill (H. R. 4913) granting a pension to Mrs. Mary E. Wyse, have considered the same, and respectfully report as follows:

Francis O. Wyse, the claimant's deceased husband, entered the United States Military Academy September 1, 1833, and was appointed brevet second lieutenant, Third Artillery, July 1, 1837; promoted to second lieutenant, July 31, 1837; to first lieutenant July 31, 1838; captain, March 3, 1847; major, Fourth Artillery, May 14, 1861, and lieutenant-colonel, Fourth Artillery, November 1, 1861.

He resigned July 25, 1863, but was reappointed and retired February 28, 1879, under an act of February 15, 1849, as an additional lieutenant-colonel, United States Army.

Colonel Wyse participated in three wars (Indian, Mexican, and civil) during the period of his service and his conduct throughout was marked by great gallantry and bravery. In the report of a joint committee of the Senate and House of Representatives at the first session of the Thirty-third Congress is contained a complimentary notice of efficient conduct on the part of the soldier and his junior officers and gives them great credit for their services.

The record shows that in April, 1859, Colonel Wyse (then a captain and brevet major) received an injury of left ankle joint and fracture of the external malleolus from a fall of his horse, and the testimony on file in the pension claim of the widow shows that he continued to be seriously affected by this injury until his death, which occurred January 21, 1893.

A printed report, dated July 18, 1847, contained in a copy of the Tampico, Mexico, Sentinel (newspaper) bestows the highest praise upon Captain Wyse for the conduct of himself and men in an engagement near the Calaboso River, Mexico, about July 11, 1847.

The report was made by L. G. De Russy, colonel Louisiana Volunteers, who commanded the United States forces in the engagement, and repeatedly commends Captain Wyse for his courage and gallantry.

After the death of the soldier the widow filed an application for pension, and the proof established the fact that his death was due to causes originating in the service and line of duty, but the Pension Bureau rejected the claim on the ground that the fatal disease had its inception in a time of peace prior to March 4, 1861, and hence there is no law under which the widow can be allowed a pension. The officials of the

Pension Office concede, however, that the disease originated during the soldier's military service and in line of duty, and the rejection is based wholly upon the absence of law under which the widow can be pensioned when the soldier's fatal disease originated during a time of peace prior to March 4, 1861.

The soldier held the rank of captain at the time of contracting the disease (bronchitis) from which he died, and in the light of the foregoing facts and circumstances your committee believe that it would be but an act of justice to allow his widow the usual pension granted to the widows of captains.

The bill is therefore returned with the recommendation that it do pass.

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WILLIAM H. MORRIS.

FEBRUARY 19, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. McCLELLAN, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 4383.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4383) granting a pension to Gen. William H. Morris, have examined the same, and report as follows:

William H. Morris was born in 1827. He was graduated from West Point with the class of 1851, and commenced his military career as a lieutenant in the Second United States Infantry, then stationed at Fort Yuma, Cal. At the outbreak of the war of the rebellion he was assigned to duty, with the rank of captain, as the assistant adjutant-general and chief of the staff of Maj. Gen. John J. Peck, in the Army of the Potomac. He served through the peninsula campaigns with great credit.

He was commissioned colonel of the Sixth New York Volunteer Artillery on September 2, 1862, and was ordered with his regiment to Baltimore, which was then being threatened by Stonewall Jackson's army, only 40 miles away, at Frederick. The rebels having been driven back out of Maryland by the Army of the Potomac, Morris was placed in command of Fort McHenry and his regiment added to its garrison. Soon after he was ordered to Harpers Ferry. While there he was promoted to the rank of brigadier-general, and placed in charge of Maryland Heights, with a force consisting of the Sixth Regiment New York Artillery, regiments of infantry and cavalry, and batteries of heavy guns.

When Maryland Heights were abandoned, by order of the War Department, General Morris was ordered to join the Third Corps in the Army of the Potomac. A brigade was organized for him, consisting of the Sixth Regiment New York Artillery and the following regiments of infantry: The Fourteenth New Jersey, the Tenth Vermont, the One hundred and fifty-first New York Volunteers. General Morris was in the reserve at the battle of Gettysburg, July 1 to 3, 1863, and engaged in the action of Wapping Heights, July 23, 1863. Not long after this time the Sixth New York Regiment of Artillery was ordered to join the artillery reserve of the Army of the Potomac.

General Morris was conspicuous in the action of Locust Grove, November 29, 1863.

In the reorganization of the Army of the Potomac the Third Corps was broken up; one part sent to join the Second Corps, and the other part, with General Morris, was added to the Sixth Corps. The new brigade formed for him consisted of the One hundred and sixth New

York, the One hundred and fifty-first New York, the Fourteenth New Jersey, the Tenth Vermont, and the Eighty-seventh Pennsylvania Regiment Volunteer Infantry. In the Richmond campaign under Grant General Morris was constantly engaged, taking an important part in the battle of the Wilderness.

At the action near Spottsylvania, May 9, 1864, General Morris was shot through the leg by a sharpshooter, and rendered unfit for further service in the field.

After some months passed in the hospital at Georgetown General Morris was ordered to report to General Dix for court-martial duty in New York, and continued on light duty until the close of the war, when he was honorably mustered out of service. The brevet rank of major-general, United States Volunteers, was conferred upon him by the President of the United States March 13, 1863, "for gallant and meritorious services in the battle of the Wilderness, Virginia."

General Morris represented Putnam County, N. Y., in the constitutional convention of 1867, and was chief of ordnance and inspector general in the National Guard of the State of New York.

General Morris has lately been suffering from a complication of diseases which has made him a chronic invalid, unable to earn his living—a serious consideration to a man who has all his life been obliged to depend on his own exertions for his means of support.

In view of the very distinguished services of General Morris, and of his record as a gallant soldier, your committee recommend the passage of the bill.

MEMORIAL BRIDGE ACROSS THE POTOMAC RIVER.

FEBRUARY 19, 1896.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. SHERMAN, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany S. 176.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 176) to provide for the construction of a memorial bridge across the Potomac River, report the same back with amendments, and with the recommendation that the bill as so amended do pass.

Amend in section 1, line 8, by adding at the end of line the words "the limit of cost of which shall not exceed \$600,000," and in section 2, line 6, after the word "cost," "and to commence construction."

The purpose of the bill is to construct a bridge across the Potomac River between the Naval Observatory grounds, in this city, and the Arlington Reservation and Fort Myer, in Virginia.

In the Fifty-second Congress a private corporation sought to build a bridge at this point, and a bill granting the franchise for that purpose was introduced in the second session thereof. This bill was referred for report to the War Department by this committee, and the War Department so strenuously and urgently opposed the granting of this site to a private corporation, upon the ground that the site was needed by the Government, that this committee declined to report the bill. We are not aware that at any other time private parties sought to build the bridge. We are satisfied, however, that, considering the necessity of rendering speedily and safely accessible to the capital its chief military post at Fort Myer, the propriety of a fitting approach to the great national cemetery at Arlington, where are gathered so many of the nation's honored dead, and the desirability for these reasons of subjecting the use of this bridge to the control of the War Department, none other than the Government should be allowed to build it. For the same reason, and because tramways of every kind are excluded by this bill from the use of this bridge, it is proper that the cost of building it should be borne exclusively by the Government, and that the committee's amendment, striking out the clause imposing one-half of the cost of the bridge upon the District of Columbia, shall be adopted.

This project seems to have been pending before Congress, without final action, however, since the first session of the Forty-ninth Congress, when the Senate passed a resolution directing the Secretary of War to—

Examine and report upon the expediency of constructing a Government bridge, with suitable draw and approaches, from a point at or near the foot of New York or New Hampshire avenues, on the public grounds across the Potomac River and Anacostan Island, to a point on the United States national cemetery grounds at Arling-

ton, with estimates of the cost of the kind of bridge deemed by the Department most expedient, as well as the cost of alternative plans considered practicable and which will not materially affect the navigation of the river.

Since 1886 up to the present time the building of this bridge has been urged repeatedly upon the attention of Congress by successive Secretaries of War, Chiefs of Engineers, and Quartermasters-General of the Army. Within a brief period the present Quartermaster-General of the Army, representing not only his own views, but stating that he came by direction of the Secretary of War, has been before your committee and strenuously set forth the entire inadequacy of the present means of communication with the large military post of Fort Myer, the insecure character of the Aqueduct Bridge, and the fact that it would take twice the time to reach the capital thereover in an emergency than would be required for that purpose under the conditions presented by this bill.

We quote from the report of the present Secretary of War for 1893, as follows:

Very large sums have been appropriated by Congress for the construction of roads to cemeteries, more or less unimportant, in various parts of the country, but a like generous care has not been bestowed upon Arlington, the most important of all. The Arlington Heights grounds contains 1,100 acres, with a frontage of about 1 mile on the Potomac. They constitute one of the grandest and most beautiful parks in the country, the national cemetery occupying about one-fifth of the inclosure. In addition to its historical associations, the park abounds in rare natural beauty, and has been most carefully kept and improved. Few cities have so fine a park contiguous to their borders. Arlington Cemetery, where so many heroes lie buried, has in a large measure become, like Great Britain's Westminster Abbey, the nation's "Wal halla." Consecrated as it is to our illustrious dead, with its stately and expressive monuments commemorative of the deeds of patriots, its hallowed associations and its lessons appeal strongly to all visitors to the nation's capital. But the journey thither by a roundabout way, over roads controlled by local authorities, which are rough at all times and frequently well-nigh impassable, is not only tedious and uncomfortable, but involves an expenditure of time and money which deters great numbers from undertaking it.

A bridge over the Potomac at or about the terminus of New York avenue, near Observatory Hill, would furnish a short and direct route to the park and cemetery, and would, in fact, bring them to our very doors. But the park and cemetery are not alone to be considered. As a means of direct and rapid communication between the capital and the important military post of Fort Myer, which adjoins the park on the north, the value, in a military sense, of a bridge at this point can not be overestimated. Such a bridge would also practically join this beautiful park to the large area of reclaimed lands on the river, all of which is to form one grand park. Plans for such a bridge have been prepared by the Engineer Department, and its construction is urged as a necessity. It is respectfully recommended that Congress be requested to make an appropriation therefor.

We also quote from the report of the Secretary of War for 1894:

I renew the recommendation for improved transportation facilities between the seat of Government and the Virginia shore, and for the construction of a memorial bridge to render speedily accessible the principal military post of the capital, Fort Myer, and to furnish a befitting approach to the national cemetery at Arlington. The need of such a bridge to Potomac Heights grows more imperative each year, and the surroundings suggest that it should be so designed as to become one of the permanent memorial structures of the capital. Historical associations and natural beauty give the site unsurpassed value for such a purpose.

We also quote from the report of the Quartermaster-General for 1894, as follows:

The necessity for improved approaches to the Arlington National Cemetery and Park, as referred to in my last annual report, is again earnestly urged upon Congress, and an appropriation therefor recommended. Estimates made by engineers of this Department for the construction of good macadamized roads, of a substantial and durable character, fix the cost at \$50,000.

The present intolerable condition of the approaches to this historical spot, which forms a part of one of the most beautiful parks in the country, and where so many

of the nation's heroes are buried, should be remedied at the earliest practicable date, so as to render it more accessible to the people of the city of Washington and to the thousands of visitors to the national capital from all parts of the country.

In this connection I also renew my recommendation of last year, that an appropriation be made by Congress for the construction of a bridge over the Potomac at or about the terminus of New York avenue, near Observatory Hill, which, if constructed, will not only furnish a short and direct route to the cemetery and park, but also be a means of direct and rapid communication between the capital and the important military post of Fort Myer, Va., which adjoins the cemetery on the north. The value from a military point of view of a bridge at this place is apparent.

The Secretary of War in his annual report for 1895 says:

Improved means of communication between Washington and the Virginia shore must very soon be provided. Another bridge is not only a conceded necessity to the population of both sides of the Potomac and as an approach to the national cemetery at Arlington, but also as a military convenience to bring the principal garrison of the national capital within easy reach of its streets and public buildings.

Twice I have submitted the suggestion that such a structure can easily be made the most impressive of the world's memorials to heroism. The natural advantages of the site are unsurpassed. The region is associated with war as no other region of our country, and the site is distinctly national. Such a memorial bridge, ornamented with statues of our greatest warriors, with symbolical figures of the strong qualities that warfare brings into play, and with representations of the crucial events in national history, would be the same incomparable memorial to the greatness of a peaceful people aroused by war as our single shaft to Washington is the worthiest monument to individual greatness which human genius has yet executed. It is not proposed that the embellishment of the bridge shall now be provided for, but it is urged that its ultimate memorial character shall be considered in the first designs and earliest appropriations.

Your committee is thoroughly satisfied that this bill ought to pass.



CRIMINAL JURISDICTION OVER PLACES CEDED TO THE UNITED STATES.

FEBRUARY 19, 1896.—Referred to the House Calendar and ordered to be printed.

Mr. GILLET, of Massachusetts, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 6345.]

The Committee on the Judiciary, to whom was referred House Document No. 90, which accompanies this report and which relates to criminal jurisdiction over places ceded to the United States for certain purposes, and contains a letter from the Assistant Secretary of War, transmitting a letter from the Judge-Advocate-General relative to said subject, have considered the same and report the following bill, with the recommendation that it be passed:

A BILL to establish a criminal jurisdiction over places ceded to the United States for certain purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That when any offense is committed in any place jurisdiction over which has been retained by the United States, or ceded to it by a State, or which has been purchased with the consent of a State for the erection of a fort, magazine, arsenal, dockyard, or other needful building, the punishment for which offense is not provided for by any law of the United States, the person committing such offense shall, upon conviction in a circuit or district court of the United States for the district in which the offense was committed, be liable to and receive the same punishment as the laws of the State in which such place is situated now provide for the like offense when committed within the jurisdiction of such State, and the said courts are hereby vested with jurisdiction for such purpose; and no subsequent repeal of any such State law shall affect any such prosecution.

A copy of said bill accompanies this report and the reasons for its enactment are fully set forth in the following from a letter from the Judge-Advocate-General of the Army:

Section 5391 of the Revised Statutes prescribes that—

“If any offense be committed in any place which has been or may hereafter be ceded to and under the jurisdiction of the United States, which offense is not prohibited, or the punishment thereof is not specially provided for by any law of the United States, such offense shall be liable to and receive the same punishment as the laws of the State in which such place is situated, now in force, provide for the like offense when committed within the jurisdiction of such State; and no subsequent repeal of any such State law shall affect any prosecution for such offense in any court of the United States.”

In the case of the *United States v. Barnaby* (51 Fed. Rep., 20) Judge Knowles, discussing this section, says:

“This statute has been construed by the Supreme Court in the case of *United States v. Paul* (6 Pet., 141) and held to apply to State statutes punishing crimes which existed at the time of the passage of this statute. This decision has at no time been reversed or doubted by that court, and was a contemporaneous judicial construction of the same, and should be adhered to. Considering the language of the statute (and I do not see how any other conclusion could be reached), Congress might be willing to adopt the laws of a State which existed at the time of the passage of a statute by it, but would hardly be willing beforehand to adopt all the

criminal statutes a State might in future enact. A statute to this effect might be classed as delegating legislative authority, which is not proper. This statute was passed in 1825. But the construction contended for, namely, that it applied to any laws which might exist in any State, at any time when a place might be ceded by it to the United States, brings us to no different conclusion."

And in the case of the United States *v.* Curran, in the United States district court for the district of Colorado, in 1892, Judge Hallett held as follows:

"The United States against William E. Curran and others is a prosecution for inciting a riot and committing an assault upon certain Chinamen on the reservation at Fort Logan.

"This is alleged to be in violation of the law of the State, which is put in force by section 5391 of the Revised Statutes of the United States. This section was enacted first in 1825 and again in 1866, and it refers to the laws of States then existing. The act was so construed in Paul's Case, 6 Peters, 141 (U. S. Supreme Court).

"As Colorado was not then a State in the Union none of its laws were adopted or put in force by this act. This section will never be operative in Colorado to put in force laws of the State in respect to crimes committed on Government reservations unless reenacted.

"The motion to quash will be sustained."

Under this construction the only criminal law in force on a place under the exclusive jurisdiction of the United States is such criminal law of the United States as may be applicable, and, if it is a place jurisdiction over which has been ceded by a State existing in 1866, the laws of the State in force at that time. In the two cases cited the criminal laws of the State could not be enforced over the ceded territory because the State was not in existence at the time of the enactment of 1866, from which section 5391 of the Revised Statutes was taken. And in States which were in existence at that time the criminal laws adopted since can not, under the legislation as intercepted by the courts, be extended over such territory.

So defective is the law that in the above-mentioned cases riot, aggravated assault, false imprisonment, and assault with intent to commit murder, committed on territory within the exclusive jurisdiction of the United States, were held to be unprovided for and unpunishable. That the law needs to be amended is evident, and to that end I submit the draft of a bill to "establish a criminal jurisdiction over places ceded to the United States for certain purposes." It is appended to this report, and the recommendation is made that it be brought to the attention of Congress. It is in substantially the same language as a bill favorably reported by the Committee on the Judiciary of the House of Representatives at the first session of the Fifty-third Congress. It proposes to adopt for these places only the existing criminal laws of the States in which they are situated, and this will necessitate the reenactment of the law from time to time; but it is all that can be done, because, as was pointed out when this subject was before the Fifty-third Congress, a law adopting in advance all the criminal laws of a State in force at the time of the commission of the criminal act would be, as to any such criminal legislation of a later date than the Federal enactment, a delegation of legislative power to the State, and therefore inoperative.

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STORAGE IN THE DISTRICT OF COLUMBIA.

FEBRUARY 19, 1896.—Referred to the House Calendar and ordered to be printed.

Mr. CURTIS, of Iowa, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany H. R. 3462.]

The Committee on the District of Columbia, to whom was referred the bill (H. R. 3462) to regulate the business of storage in the District of Columbia, make the following report:

There are a large number of persons, firms, associations, and corporations in the District of Columbia engaged in the business of storing for hire goods, wares, merchandise, or other personal property. The business is of considerable volume, and the District derives valuable revenue therefrom by way of licenses, direct taxes, etc. Much confusion and inconvenience has, however, resulted from the fact that the parties mutually interested in such business as bailors and bailees have been kept entirely to their common law relations and remedies. The object of the bill presented by the committee is to regulate this business in a manner just both to the bailor and to the bailee.

Heretofore in cases where storage charges have become in default, or where advances for freight, cartage, labor, insurance, or other necessary expenses have not been repaid, forced sales of the stored property could be made and often have been made at very short notice, and even without notice, under conditions necessarily harsh to the owner, who might be sick or temporarily absent from the city. On the other hand, if the warehouseman was liberal and did not resort to forced sale, accumulation of the expenses necessarily ate up the value of the property and left nothing to either party. The bill reported gives advantage to neither party. It recognizes the right of the bailee to be secured and to be paid for his services and the obligation of the bailor and of the goods to pay him therefor. It provides a method whereby, after ample personal notice to the bailor and of subsequent published notice in a Washington daily newspaper, unpaid advances and storage charges overdue for not less than one year may be enforced against the property. It thus fully protects owners of stored property against snap proceedings, while making the *property* responsible for the lawful expenses of its custody.

While making the property stored responsible for advances and agreed storage charges, it also guards the warehousemen from being made a party to suits involving the title to the stored property. The bill is recommended by the attorney for the District, is indorsed by the District Commissioners, and is satisfactory to parties in interest. It is likewise in entire harmony with similar legislation in the States of Colorado, Connecticut, Delaware, Iowa, Kansas, Maine, Michigan,

Minnesota, Montana, Missouri, Nebraska, Nevada, New York, Ohio, Oregon, Pennsylvania, Utah, Vermont, Virginia, Washington, Wisconsin, and Wyoming.

The committee recommend the following amendments:

In section 1, line 16, strike out the word "three" and insert the word "six," thus giving a longer period for publication of notice of sale. And at the end of section 1 add the following:

And after deducting all storage charges, advances, and expenses of sale, any balance arising therefrom shall be paid by the bailee to the bailor of such goods, wares, merchandise, or personal property, his assigns or legal representatives.

As so amended the committee recommend the passage of the bill.

O

REGULATING THE ISSUANCE OF LICENSE FOR THE SALE OF INTOXICANTS.

FEBRUARY 19, 1896.—Laid on the table and ordered to be printed.

Mr. EVANS, from the Committee on Ways and Means, submitted the following

REPORT:

[To accompany H. R. 2764.]

The Committee on Ways and Means, to whom was referred the bill (H. R. 2764) regulating the issuance of license for the sale of intoxicants, having considered the same, recommend the rejection thereof on the following grounds:

The bill is based upon the notion that the Commissioner of Internal Revenue grants or issues license for the sale of liquors under the laws of the United States. This is an entire misconception, and unwarranted by anything contained in the laws or practices of the Government. The Commissioner has no power to issue or grant a license to sell intoxicants of any kind in the several States, nor has any officer of the United States. The legality of the mere occupation of selling spirituous, vinous, or malt liquors altogether depends upon the State or local statutes.

All that the United States does or can do under existing laws is to levy a tax upon that occupation wherever and whenever it finds any person exercising it. Its sole purpose is to obtain revenue. The Government does this without any inquiry as to whether or not the occupation is legally pursued under local State laws. If the occupation is unlawful by virtue of the local laws the United States does nothing whatever to make it legal or to prevent punishment thereunder. The internal-revenue taxes being levied upon the occupation wherever it is found to be exercised, the officers of the United States, without inquiring into the legality of the conduct of the person pursuing the occupation, demands the payment of the taxes levied on that occupation by the United States. This is done by requiring the person to purchase a special tax-paid stamp, which is thereupon delivered to him, and is to be conspicuously exposed in his place of business. In this manner the United States aids rather than otherwise the local authorities in ascertaining who are pursuing this occupation. The tax-paid stamp is legally considered but little if anything more than a receipt for the amount of

taxes levied by the Federal law. This tax-paid stamp has upon it the following language:

Coupons for retail liquor dealers' special tax hereto attached.

\$ ———	No. ———.
UNITED STATES STAMP FOR SPECIAL TAX. [Internal-revenue act of October 1, 1890.] Received from ——— the sum of ——— ¹⁰⁰dollars for special tax on the business of retail liquor dealer at ———, State of ———, for the period represented by the coupon or coupons hereto attached. Dated at ———, ———, 189—. { UNITED STATES INTER- NAL REVENUE SEAL. } \$25 per year.] Collector ——— <u>Dist., State of</u> ———. Severe penalties are imposed for neglect or refusal to place and keep this stamp conspicuously in your establishment or place of business.	

Across the face are these words: "This stamp is simply a receipt for a tax due the Government, and does not exempt the holder from any penalty or punishment provided for by the law of any State for carrying on the said business within such State, and does not authorize the commencement nor the continuance of such business contrary to the laws of such State, or in places prohibited by municipal law. (See section 3243, Revised Statutes, U. S.)"

Section 3243 of the Revised Statutes of the United States, referred to in the stamp, is as follows:

The payment of any tax imposed by the internal-revenue laws for carrying on any trade or business shall not be held to exempt any person from any penalty or punishment provided by the laws of any State for carrying on the same within such State, or in any manner to authorize the commencement or continuance of such trade or business contrary to the laws of such State, or in places prohibited by municipal law; nor shall the payment of any such tax be held to prohibit any State from placing a duty or tax on the same trade or business, for State or other purposes.

The language of the statute itself would seem conclusively to show that the measure is framed upon an entire misapprehension, for the statute distinctly disclaims any attempt to make lawful that which is unlawful by local laws. It will be seen, as already suggested, that the stamp is merely a receipt for a tax which the United States law requires every person who sells such liquor to pay whether he sells lawfully or unlawfully under the local laws, and every person who takes out these stamps is warned by the provisions of section 3243 and by the words printed on the face of the stamp that it is not a license; that it gives him no authority to carry on such business in violation of the local or State laws, and affords him no protection whatever from the consequences of doing so.

The most extreme prohibitory law in the State is not, therefore, interfered with in any degree by the issuance of the United States special-tax stamp. As is well known, prohibitory liquor laws do not prevent the unlawful sale of alcoholic liquors in the State. Wreckless persons, in spite of such laws, engage in such sales, and the effect of this bill,

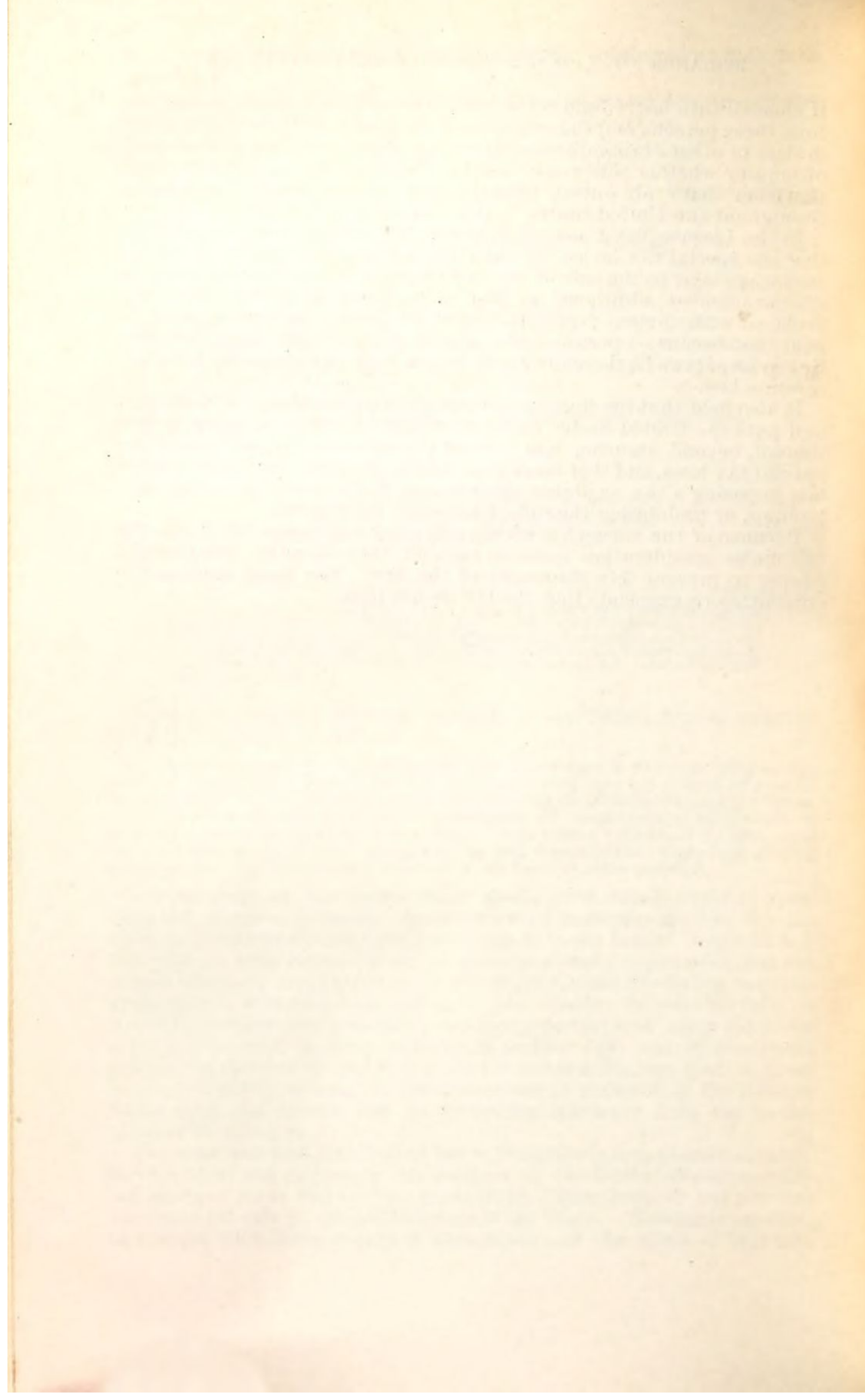
if enacted into law, would be to forbid the collection of the special tax from these persons and the issuance of the stamp to them, while liquor dealers in other States are required to pay the tax. It might be worthy of inquiry whether this would not be obnoxious to the constitutional provision that "all duties, imposts, and excises should be uniform throughout the United States." (Constitution, Art. 1, Sec. VIII.)

In the License Tax Cases (5 Wallace, 462) the Supreme Court held that the special tax levied by the United States, instead of being an encouragement to the sale of alcoholic liquors in violation of law, is a discouragement additional to that of the local prohibitory law, and declared with obvious propriety that it would be a judicial anomaly to hold that because a person had engaged in a business made unlawful by the local laws he therefore could escape from tax under the internal-revenue law.

It also held that the stamp or receipt gives no semblance of authority, and puts the United States under no obligation whatever to the holder thereof, beyond assuring him against prosecutions by itself under the special-tax laws, and that there is no conflict between the United States law imposing a tax on liquor dealers and State laws regulating, controlling, or prohibiting the sale of alcoholic beverages.

Because of the somewhat widely extended impression to which the bill under consideration seems to respond, the committee has thought proper to present this statement of the law. For these reasons the committee recommends that the bill do not pass.





EMPLOYMENT BY COMMITTEE ON WAYS AND MEANS OF
A SUITABLE EXPERT OR EXPERTS, ETC.

FEBRUARY 20, 1896.—Ordered to be printed.

Mr. McCALL, of Tennessee, from the Committee on Accounts, submitted the following

REPORT:

[To accompany H. Res. 176.]

The Committee on Accounts, to whom was referred the accompanying resolution (H. Res. 176), authorizing the Committee on Ways and Means to employ a suitable expert or experts, and to have done such printing as may be necessary, the expense of such services and printing not to exceed the sum of \$1,500, the same to be paid out of the contingent fund of the House, beg to report and recommend the adoption of the same.

○

CHOCTAW, OKLAHOMA, AND GULF RAILWAY COMPANY.

FEBRUARY 20, 1896.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. FLYNN, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany H. R. 5975.]

The Committee on Indian Affairs, to whom was referred House bill 5975, having considered the same, recommend its passage.

Section 1 of this bill gives the Choctaw, Oklahoma and Gulf Railway Company power to construct and operate branches in Indian Territory, after maps showing the location of the branches shall have been filed with and approved by the Secretary of the Interior. The act of August 24, 1894, gave the company power to construct these branches, but the act did not in terms require the filing and approval by the Secretary of the Interior of maps showing the lines and locations. Before the President would sign the bill passed August 24, 1894, he required Mr. Gowen, the president of the company, to agree that he would not construct nor attempt to construct any of the branches contemplated by the act until the bill had been so amended by another Congress as to require maps to be filed with and approved by the Secretary of the Interior. This section is intended to meet that objection, and to keep that promise made to the President.

Section 2 of the bill provides that this company may build branches to aid in the development of any coal or timber territory contiguous to its lines. These branches, or spurs, are not to exceed 5 miles in length, they being intended simply to market the coal and timber contiguous to the main right of way.

Section 3 provides that the line of railroad which has heretofore been built shall be treated as a full compliance with the requirements of law, which were that the main line of said company should be completed prior to February 18, 1896. The main line, as originally surveyed, ran from a point on Red River, on the Texas line, to a point in Arkansas, a distance of something over 100 miles. The company has constructed 50 miles of this main line, but in addition to this 50 miles has constructed about 170 miles of branch line, running from Hartshorn, in Indian Territory, to Elreno, in Oklahoma, making about 220 miles in all that the company has constructed and now has in operation. It will be seen, therefore, that the company has constructed more miles of railroad than the law required it to construct prior to February 18, 1896. The law requiring the main line to be built within a certain time was simply to guarantee good faith. It would seem that faith has been kept in this instance, because, although the letter of the law requiring the main line to be built within a given time had not been kept, yet the spirit of the

law has been, in view of the fact that a greater number of miles of railway has been constructed than actually required by the previous act.

Section 2, which has already been partially explained, permits the company to build and operate a branch from any point on its existing line to the northern line of the State of Texas. The company, under existing law, has the right to build a main line from Hartshorn, located on the east and west line of the company to a point on northern line of the State of Texas. The company asks that it be permitted to build the remainder of this main line from any point on its east and west line to a point on the northern line of Texas, it being understood, however, that only one branch from its east and west line to Texas is to be built. This does not give the company any additional territory not heretofore granted, but simply permits the location of the line to be changed, as the interests of the company and the people of the Territory may demand.



FUR-BEARING ANIMALS IN ALASKA.

FEBRUARY 20, 1896.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. DINGLEY, from the Committee on Ways and Means, submitted the following

REPORT:

[To accompany H. R. 3206.]

The Committee on Ways and Means, to whom was referred the bill (H. R. 3206) to amend an act entitled "An act to prevent the extermination of fur-bearing animals in Alaska, and for other purposes," have considered the same, and beg leave to report:

In order to prevent the extermination of fur seals, which will soon take place unless prompt measures can be taken to prevent pelagic sealing, this bill authorizes the President to invite Great Britain, Russia, and Japan, or any of them, to unite with the United States in the appointment of a joint commission to investigate the present condition and habits of the fur-seal herd in the North Pacific Ocean and in Bering Sea, and the method of slaughtering the same, with the result of such slaughter, and report what further regulations, if any, are necessary for its preservation, with a view to their adoption and enforcement by the countries uniting in creating such commission.

Pending this investigation the President is authorized to conclude a *modus vivendi* with said Governments, or any of them, providing for such new or additional regulations as may be deemed expedient for the preservation of the fur-seal herd, said *modus vivendi* to terminate January 1, 1898.

If, however, the President finds himself unable to secure the cooperation of Great Britain, especially, in securing the *modus vivendi* authorized by this bill, so as to protect and preserve the Alaskan seal herd for this year's sealing season, then the Secretary of the Treasury is authorized to take each and every fur seal on the Pribilof Islands and to sell the skins of said seals as he may elect, and to cover the proceeds into the Treasury.

The necessity for this course arises from the fact that the Alaskan fur-seal herd is being rapidly exterminated by pelagic sealing vessels—mainly Canadian—which follow the seal herd as it moves along our Pacific Coast in the spring and enter Bering Sea at the end of the close season in August, when they are free under the ineffectual regulations adopted by the Paris Tribunal to use the spear—more deadly than the shotgun—in killing, outside of the 60-mile zone, the seals that frequent these waters in pursuit of food. As these seals are mainly females that have brought forth their young on the Pribilof Islands, the killing of the mother seals results in the starvation of the young upon the land and the inevitable rapid extinction of the fur-seal herd.

The rapidity of the decline of the valuable herd which annually resorts to the Pribilof Islands of Alaska, mainly on account of pelagic sealing, will be seen when it appears that in 1874 this herd numbered

about 4,693,000. In 1890 the herd had been reduced to 1,039,000, and at the close of the season in 1895 to about 175,500—44,000 seals, mostly females, having been killed during the last season by pelagic sealers, and about 30,000 pups having died of starvation in consequence of the killing of the mother seals.

One year ago it was the estimate of experts that if all killing of seals had been stopped then it would take five years to restore it to its former numbers. It is now estimated that if regulations can be secured before the next season opens the herd can be restored in ten years. If, however, the pelagic sealers are permitted to avail themselves of another season's opportunities for slaughter under the ineffectual regulations of the Paris Tribunal, it is believed by experts that the herd will be so nearly exterminated as to make it very difficult to restore it; and that if pelagic sealing continues, within five years not only the Alaskan herd, but also the Russian and Japanese herds, will be well-nigh extinguished.

When it is borne in mind that our Government received almost \$6,000,000 between 1870 and 1890 from the lessees who were given the exclusive privilege of annually killing 100,000 male seals above one year of age, and in 1890, under the new lease, \$269,673, but in 1891 only \$46,749, in 1892 only \$23,972, and since 1892 it has received nothing (notwithstanding \$550,000 is due) because of a claim of the lessees for a reduction of rental which awaits determination by the courts, it will be seen that the Treasury is being deprived of a very valuable source of revenue by the operations of the pelagic sealers.

Not only this, but the Government expended in 1894 about \$450,000 in a vain attempt to prevent the killing of seals in Bering Sea by enforcing the inefficient regulations of the Paris Tribunal.

It will be seen, therefore, that unless Great Britain can be persuaded to unite with this country in so modifying and enlarging the regulations adopted by the Paris Tribunal—for Russia and Japan are ready to join us—the Canadian pelagic sealers will within five years completely exterminate not only the Alaskan but the Russian seal herds, and deprive this country of a valuable source of revenue and the world of a great boon. And inasmuch as all these seal skins go to London to be prepared and dyed, giving employment there to nearly 50,000 persons, even Great Britain herself will be deprived of a valuable source of income for her own people.

It is believed that it is Canada that is standing in the way and holding back Great Britain from cooperating with us in the preservation of the seal herd, and that when Canada sees that we propose to take summary measures to end not only the inhumanity that consigns thousands of young seals to slow starvation, but also the farce by which we are expending large sums of money to police Bering Sea practically to aid her pelagic sealers in the work of exterminating seals, she will no longer endeavor to prevent England from uniting with us in efficient measures to save the seal herds to the world.

If, however, we fail in this, as we have failed under present conditions, notwithstanding we have been urging Great Britain for more than a year to unite with us in measures to preserve seal life, then considerations of mercy as well as of economy and justice demand that we should stop the further cruel starvation of thousands of seal pups by taking what seals are left and disposing of their skins and covering into the Treasury the proceeds, which would probably reach \$5,000,000.

Your committee therefore unanimously recommend the passage of the accompanying bill.

ARKANSAS NORTHWESTERN RAILWAY COMPANY.

FEBRUARY 20, 1896.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. LITTLE, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany H. R. 5564.]

The Committee on Indian Affairs, to whom was referred House bill 5564, have had the same under consideration and recommend that it do pass, with the following amendments:

In line 43, section 3, strike out the following words, "held at Fort Smith, Arkansas," and insert the following language, "for the northern division of the Indian Territory exercising jurisdiction over the Territory in which the lands sought to be condemned are situate." Also by striking out all of section 7.

○

CONSTRUCTION OF SAMPLING WORKS.

FEBRUARY 20, 1896.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. DINGLEY, from the Committee on Ways and Means, submitted the following

REPORT:

[To accompany H. R. 2916.]

The Committee on Ways and Means, to whom was referred the bill (H. R. 2916) to facilitate collecting of revenue, to provide for construction of sampling works, etc., beg to report:

Your committee have had the same under consideration, and find that, in the opinion of the Treasury Department, the bill is of a character to facilitate the collection of revenue, which opinion accompanies this bill. The committee therefore recommend that the bill be passed with the following amendments:

At the end of line 6, section 2, add: "In no instance shall a less portion than one-fifth of any importation of ores imported at ports where sampling works are established be sampled and assayed."

At the end of line 9, section 3, add: "*Provided*, That the expenditure authorized by this act shall not exceed forty-five thousand dollars."

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., February 6, 1896.

SIR: Replying to the inquiries contained in your letter of the 30th ultimo, in relation to House bill 2916, which provides for the construction and equipment of sampling works for the sampling and assaying of imported silver ores, and other ores containing lead, I have the honor to inform you that I am of opinion that the establishment of such works as those referred to in the bill under consideration at El Paso, Tex., Northport, Wash., and Bonners Ferry, Idaho, will furnish all the facilities required at present; and that it is probable that to purchase the necessary land to construct and equip works thereon, or to lease suitable buildings and equipment for the sampling and assaying of ores, and to provide for the compensation for one year of the employees whose services will be necessary in connection with such works, \$45,000 will be required.

It is deemed advisable to invite your attention to the fact that paragraph 165 of the tariff act of August, 1894, provides for the assessment of a duty of three-fourths of 1 cent per pound on ores containing lead, according to sample and assay at the port of entry, the method of sampling and assaying to be that usually adopted for commercial purposes by public sampling works in the United States. This Department has no facilities for a compliance with the law referred to. Under the authority contained in the act approved March 2, 1895, providing for sundry civil expenses of the Government for the fiscal year ending June 30, 1896, proposals were invited for furnishing such facilities. But two responses were made, both being for ores imported into the same district, and both were rejected, for the reason that the prices charged for the work were regarded as excessive.

In the opinion of this Department the erection of sampling works by the Government should be authorized, as otherwise it will be impossible to enforce the provisions of the act of 1894, above referred to.

The views herein expressed were communicated on the 20th ultimo to the chairman of the Committee on Finance of the Senate, in reply to a request from him for an expression of the opinion of this Department on Senate bill 1218, providing for the construction and equipment of sampling works for the sampling and assaying of silver ores and other ores containing lead.

Respectfully, yours,

S. WIKE, *Acting Secretary.*

Hon. NELSON DINGLEY, Jr.,

Chairman Committee on Ways and Means, House of Representatives.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., January 20, 1896.

SIR: I have the honor to acknowledge the receipt of your communication of the 8th instant, with which was inclosed, for an expression of my views thereon, Senate bill 1218, providing for the construction and equipment of sampling works for the sampling and assaying of imported silver ores and other ores containing lead.

Paragraph 165 of the tariff act of August, 1894, provides for the assessment of a duty of three-fourths of 1 cent per pound on ores containing lead, according to sample and assay at the port of entry, the method of sampling and assaying to be that usually adopted for commercial purposes by public sampling works in the United States. The Department has no facilities for a compliance with the law referred to, although proposals for furnishing such facilities were invited under the authority contained in the act approved March 2, 1895, providing for sundry civil expenses of the Government for the fiscal year ending June 30, 1896. But two responses were made, both being for ores imported into the same district; both were rejected for the reason that the prices charged for the work were regarded as excessive.

In the opinion of this Department the erection of sampling works by the Government should be authorized, as otherwise it will be impossible to enforce the provisions of the act of 1894 above referred to. I inclose herewith an amendment as to the minimum amount of the ore imported to be sampled, which, in effect, defines the proportion used for sampling by the commercial method. It is suggested also that the word "party" in line 6 of section 3 of the bill be omitted, and the word "port" substituted in lieu thereof.

I believe the bill, as amended, should be enacted into law.

Respectfully, yours,

S. WIKE, *Acting Secretary.*

Hon. JUSTIN S. MORRILL,

Chairman Committee on Finance, United States Senate.

Proposed amendment to Senate bill No. 1218, providing for the construction and equipment of sampling works for the sampling and assaying of imported ores containing lead:

Insert after the word "ports," in section 2 of said bill, as follows:

"In no instance shall a less portion than one-fifth of any importation of ores imported at ports where sampling works are established be sampled and assayed."

DISTRIBUTION OF SEEDS.

FEBRUARY 20, 1896.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. WILLIS, from the Committee on Agriculture, submitted the following

REPORT:

[To accompany S. R. 43.]

The Committee on Agriculture, to whom was referred the Senate joint resolution No. 43, submit the said resolution, and recommend the adoption of same.

The committee believe that it is the desire of Congress that the Secretary of Agriculture execute the law in the spirit in which it was enacted, and are of the opinion that, notwithstanding the lateness of the season, it is still practicable for him to do so; that many (if not all) of the seeds, bulbs, etc., would be available for late spring or summer planting, and that in some sections they would be in time for the regular spring seeding.



ISSUE AND RECORDING OF COMMISSIONS OF OFFICERS IN THE DEPARTMENTS.

FEBRUARY 20, 1896.—Referred to the House Calendar and ordered to be printed.

Mr. BAKER, of New Hampshire, from the Committee on the Judiciary,
submitted the following

REPORT:

[To accompany S. 732.]

The Committee on the Judiciary, to whom was referred the bill (S. 732) to regulate the issue and recording of the commissions of officers in several of the Departments, submit the following report:

As early as January, 1785, Congress, under the Articles of Confederation, by "an ordinance for ascertaining the powers and duties of the Secretary of War," defined them with great particularity and among other duties directed him "to make out, seal, and countersign the commissions of all such military officers as shall be employed in the service of the United States." Those duties were generally devolved, under the Constitution, upon the Secretary of War by the act of August 7, 1789 (1 Stat. L., 49), and he continued to discharge them, both as to the land and naval forces, until by the act of April 30, 1798 (1 Stat. L., 553), the Department of the Navy was established, and the Secretary of the Navy was required to assume control of all matters connected with the naval establishment of the United States. By the act of September 15, 1789 (1 Stat. L., 68), the Secretary of State was required to make out, record, and affix the seal of the United States to all civil commissions issued by the Government.

Thus the law remained until by the act of March 18, 1874 (18 Stat. L., 23) the Postmaster-General was directed to make out and record all the commissions of postmasters appointed by the President and to affix the seal of his Department thereto.

The next year it was provided by the act of March 3, 1875 (18 Stat. L., 420), that the commissions of the officers of the Interior Department should be made out, recorded, and sealed in that Department, and by the act of August 8, 1888 (25 Stat. L., 387), the Attorney-General was required to countersign all the commissions of judicial officers, including marshals and United States attorneys, and to have them prepared and recorded in the Department of Justice.

These several changes from the early statute of 1789 have been found satisfactory in their practical operations, and it is now deemed advisable by your committee that each Executive Department make out and record the commissions of its own officers. This bill is earnestly recommended by the Secretary of State.

Your committee therefore recommend that the bill do pass.

MRS. A. C. WAGNER.

FEBRUARY 20, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HULL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 2003.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2003) for the relief of Mrs. A. C. Wagner, respectfully report:

Seldom has a more meritorious claim been presented to your committee, or one that appeals more to their sympathy. The facts are as follows: On the 7th day of July, 1880, John A. Wagner was in a boat fishing on the Delaware River, State of Pennsylvania. On the same day Joseph E. Carr, an employee of the United States Government, was testing officially ammunition at the Frankford Arsenal, situated on the bank of said river. While so engaged, firing at a target 200 yards distant, one of the bullets struck the side of the target, causing it to deflect from its course, and wounded the said John A. Wagner by striking him in the left thigh. The said Joseph E. Carr saw said gunshot wound and helped nurse the said John A. Wagner while suffering from said injury. His affidavit, setting forth the above facts, is appended to this report.

The affidavits of Henry Glazier and Henry Simmons, who were in the boat with John A. Wagner on the day of the accident, setting forth the same facts, are also appended. The affidavits of I. P. Strittmatter, M. D., and A. H. De Young, M. D., certifying that said John A. Wagner died from disease initiated and influenced by the said gunshot wound received by John A. Wagner aforesaid, are also appended.

Your committee therefore unanimously recommend:

That the Secretary of the Treasury be, and he is hereby, authorized to pay the said Mrs. A. C. Wagner \$5,000, in payment of all claim or damage arising from the aforesaid injury or death of her husband, John A. Wagner, which was caused thereby.

UNITED STATES OF AMERICA,
County of Philadelphia, ss:

Be it known that on the day of the date hereof, before me, the undersigned, a notary public for the commonwealth of Pennsylvania, residing in the city of Philadelphia, personally appeared Joseph E. Carr, aged 49 years, residing at No. 1820 Orthodox street, in Frankford, in the county of Philadelphia and State of Pennsylvania, who, being duly sworn according to law, did depose and say that he is employed at the United States Arsenal at Frankford, in the county and State aforesaid, and was so employed there on the 7th day of July, A. D. 1880, on which said day he was engaged in experimenting and testing ammunition with a rifle at the rifle-practice grounds in the said arsenal, and while so engaged, in firing at a target at 200 yards'

distance, one of the bullets from the said rifle struck the side of the target, causing the bullet to deflect from its course, and wounded the person of John A. Wagner by striking him in the left thigh. The deponent further says that at the time the said John A. Wagner was wounded he was engaged in fishing upon the bank of the river Delaware and about 50 yards above the line of fire; that the deponent saw the said gunshot wound and sat up with the said John A. Wagner at nights while suffering from the said injury; and further the deponent saith not.

JOSEPH E. CARR.

Sworn and subscribed before me this 11th day of January, A. D. 1896.

[SEAL.]

GEORGE L. BATTERSBY,
Notary Public.

The words "causing a wound which eventually caused his death" were erased before signing by the affiant.

GEORGE L. BATTERSBY,
Notary Public.

PHILADELPHIA, *February 11, 1882.*

Personally appeared before me, Benton O. Severn, a police magistrate in and for the city of Philadelphia, Henry Glazier and Henry Simmons, who, being sworn according to law, doth depose and swear that on the 7th day of July, 1880, they, in company with John A. Wagner, were in a boat opposite the United States Arsenal at Bridesburg fishing; that between 2 and 3 o'clock p. m. the said John A. Wagner was wounded in the right leg by a shot fired from a rifle from the arsenal grounds. The boat was rowed to the shore, from where we carried him to the arsenal hospital, where the bullet was extracted by Dr. Burns, the surgeon. He was then carried upstairs, where he remained under treatment until the 7th of August, just one month, before the surgeon allowed him to be taken home.

HENRY GLAZIER.
HENRY C. SIMMONS.

Sworn and subscribed to before me this 11th day of February, A. D. 1882.

[SEAL.]

BENTON O. SEVERN,
Magistrate of Court No. 18, 1012 Columbia Avenue.

STATE OF PENNSYLVANIA,
County of Philadelphia, ss:

I, William B. Mann, prothonotary of the court of common pleas of said county, do certify that Benton O. Severn, esq., before whom the annexed affidavit was made, was, at the time of so doing, a magistrate, duly commissioned and qualified to administer oaths and affirmations and to take acknowledgments, etc., and to all whose acts, as such, full faith and credit are and ought to be given, as well in courts of judicature as elsewhere, said court being a court of record; and that I am well acquainted with the handwriting of the said Benton O. Severn, magistrate, and verily believe his signature thereto is genuine, and that said affidavit purports to be taken in all respects as required by the laws of the State of Pennsylvania.

In testimony whereof I have hereunto set my hand and affixed the seal of said court this 18th day of February, in year of our Lord 1882.

[SEAL.]

WILLIAM B. MANN, *Prothonotary.*

Personally appeared before me, John J. Minnick, a notary public of the city of Philadelphia, State of Pennsylvania, Albert J. Logo, a resident of the city of Philadelphia, who doth depose and say as follows: That he was intimately acquainted with the herein-named claimant, Mr. John A. Wagner, now deceased, during the whole period of his natural life, and that he was born and reared in the immediate vicinity of his residence, and had every facility to know him thoroughly and well; and that on or about the 10th day of July, in the year 1880, while the said Albert J. Logo was at his place of business at No. 511 Arch street, in the city of Philadelphia, he was requested by John A. Wagner, jr., to visit his father at the Bridesburg Arsenal, where he was lying wounded from a gunshot received while fishing in the Delaware River; and the deponent further says that he immediately visited the claimant, Mr. John A. Wagner, and found him in bed with a gunshot wound of the right leg, the ball having entered just above the knee on the inner side of the leg and torn around to the outer surface of the right thigh, where it had been extracted; and that the patient, John A. Wagner, then and there informed the deponent,

Albert J. Logo, that the tendons and nerves of his right leg were torn and cut, and that he suffered great pain therefrom; and the deponent also says that upon this and subsequent occasions, when visiting the said John A. Wagner, he personally observed that the attendant who was assigned to wait upon the patient was apparently in a deplorable condition, a victim of alcoholism, and seemed to be verging upon an attack of delirium tremens; and further that upon one of these occasions he saw the attendant appropriate to his own use and drink the stimulant provided for the patient by the hospital steward; and that upon mentioning the fact to the patient, Mr. John A. Wagner, he said: "Don't say anything; I am afraid of him, and Lord knows what he might do when no one else was present;" and the deponent further says that the very kind attention Mr. John A. Wagner received while in the hospital at the Bridesburg Arsenal was preeminently due to the unremitting care and constant devotion of his family; and that he visited the claimant, Mr. John A. Wagner, frequently from the date of his wound until the day he died, November 12, 1893, and during the latter part of his illness he assisted in nursing him. On these occasions the sufferer invariably complained of his wound, and said it would eventually cause his death.

Mr. John A. Wagner was a man of more than ordinary intelligence, was extremely devoted to his family, an excellent provider, and always enjoyed a comfortable home. He also maintained an unblemished character in every respect, was surrounded by a host of warm friends, and, in fact, was just the man to avoid unnecessary exposure to danger.

A. J. LOGO,
1824 North Twenty-third Street, Philadelphia, Pa.

Sworn and subscribed to before me this 10th day of January, A. D. 1896.

[SEAL.]

JOHN J. MINNICK, *Notary Public.*

PHILADELPHIA, April 11, 1894.

To whom it may concern:

Be it known that John A. Wagner, aged 61 years, residing at 976 North Sixth street, in the city of Philadelphia, became ill with a cancerous condition of lymphatic glands in his right groin below Poupart's ligament and on the saphenous opening, May 3, 1893, being obliged to go to and remain in bed July 2, 1893, until his death, November 12, 1893. We believe that death was due to general infection from the cancerous inguinal glands. We believe that the action of cancerous process in the inguinal glands was initiated and influenced by a gunshot wound of the right thigh received near the Frankford Arsenal on July 7, 1880. We believe also that part of the inflammatory and malignant action in the glands above Poupart's ligament resulted from a congenital phimosis that was operated upon September 18, 1893, showing a small warty growth upon the corona, which recurred. Notwithstanding this last-named condition we believe that the malignant action in the gland of Scarpa's triangle was induced by and influenced by the irritation from the gunshot wound of thigh. This conclusion is borne out by the continued painful condition of thigh from the time the injury was received up to the date of development of the cancerous process.

I. P. STRITTMATTER, M. D.,
Attending Surgeon.

A. H. DE YOUNG, M. D.

CITY OF PHILADELPHIA, ss:

Sworn and subscribed to before me this 11th day of January, A. D. 1896.

[SEAL.]

JNO. M. O'BRIEN,
Magistrate Court No. 18.

MARY L. BACON.

FEBRUARY 20, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HOWE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 5400.]

The Committee on Pensions, to whom was referred the bill (H. R. 5400) granting an increase of pension to Mary L. Bacon, have considered the same and report:

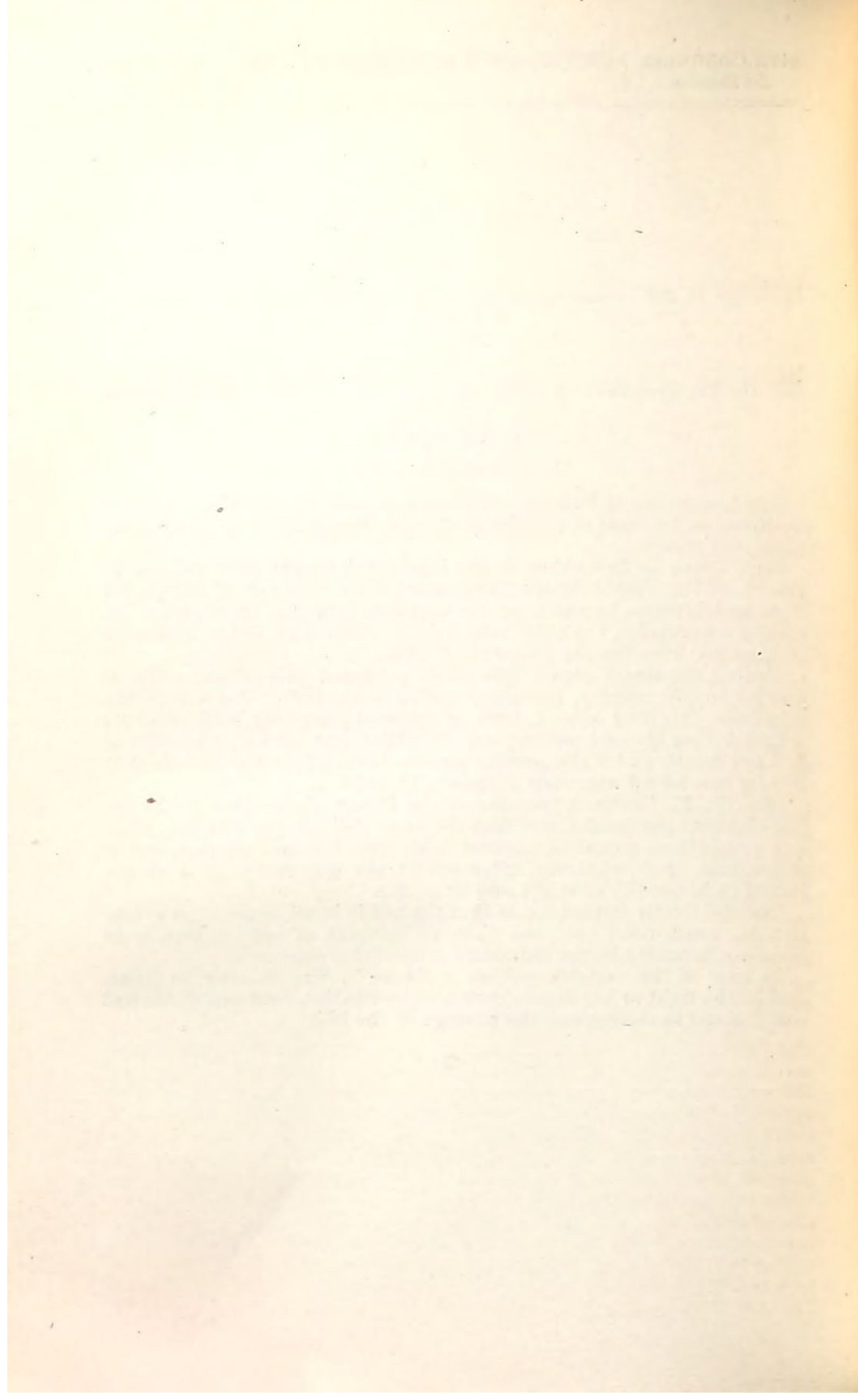
Mrs. Bacon is the widow of the late Lieut. Commander George B. Bacon, of the United States Navy, who passed through all the grades from midshipman, to which he was appointed October 10, 1850, to lieutenant-commander, the rank held by him at the time of his honorable resignation from the Navy on June 6, 1865.

During the above period this officer rendered gallant and arduous service to his country, including active duty during the war of the rebellion. He died April 1, 1890, of malarial poisoning, which had its origin during his said service, and his widow was allowed a pension at \$25 per month under the general pension laws. This was increased to \$30 by special act approved February 15, 1893.

Gen. N. M. Curtis, a member of the House, states that he knows the claimant personally, and that she is of delicate constitution, without property or means of support aside from her said pension, and is dependent upon whatever employment she can secure of a nature suited to her bodily strength and lot in life.

General Curtis further states that the bill is in all respects an exceptionally meritorious one, and that an increase of her pension is an absolute necessity to the claimant's comfortable support.

In view of the valuable service rendered by Mrs. Bacon's husband, and in the light of her dependence and necessities, your committee feel constrained to recommend the passage of the bill.



ARCHIBALD HUNLEY.

FEBRUARY 20, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WOOD, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 5580.]

The committee on Invalid Pensions, to whom was referred the bill (H. R. 5580) granting a pension to Archibald Hunley, submit the following report:

The committee, having examined the evidence in support of this bill, find:

Archibald Hunley was tried by division court-martial January 25, 1863, on charge of disrespectful language and resistance to officer, was convicted and sentenced to be confined at hard labor in military prison during remainder of his term, and to be dishonorably discharged. The sentence was duly executed. The offense for which he was tried was very trivial, if, indeed, any offense whatever. A sergeant being in the act of putting a drunken soldier in a tent, and having the soldier down in the mud and water, Hunley said to the sergeant: "Let him up and don't hurt him. You ought not to treat Graves that way." That was the whole offense. Hunley's captain seems to have had a spite against him. When sick the captain had him sent to hospital and directed that no descriptive roll be sent with him. On Hunley's return from hospital the said captain, then being major, had him marked "absent without leave" and prevented him from getting his pay on that account. On Hunley's obtaining a certificate from the hospital showing his presence there, the major refused to have rolls corrected and said to him: "You must lose your pay or stand court-martial." Two hours afterwards Hunley was arrested; the trial followed, with the above result.

The case of this soldier has been before the Forty-seventh, Fiftieth, and Fifty-first Congresses. Favorable reports were made in the Forty-seventh and Fiftieth Congresses, and the above facts were found. The Fifty-first Congress passed an act for this soldier's relief, which was approved March 3, 1891, and provides that "the said proceedings of said court-martial be no bar to application for and allowance of a pension to said Hunley in accordance with the provisions and limitations of the pension laws." This act also authorized the Treasury Department to audit and pay Hundley his back pay, bounty, and allowances, which has since been done. Prior to the passage of said act the Secretary of War removed the charges of "being absent without leave and desertion."

The Secretary of the Interior, through the Commissioner of Pensions, now refuses to place the claimant on the pension roll under act of June 27, 1890, holding that he has not an honorable discharge.

There is no question but that this claimant is entitled under that act to a pension, so far as disability from manual labor is concerned.

Your committee conclude that a great wrong and hardship has been done this soldier; that he has been a victim of oppression and injustice at the hands of his officers, which the Congress in good faith has endeavored to correct so far as it is able. The act of June 27, 1890, was in force when the act for the relief of this soldier became a law. It must be considered that the law-making power had in mind the condition of legislation in regard to pensions. If reasonable effect be given to every part of the act for this soldier's relief there is now no bar to his receiving a pension, except the unwarrantable action of the Commissioner of Pensions in refusing to obey the law.

Your committee recommend that the bill be amended by striking out the word "sixteen" in sixth line, and inserting in lieu the word "twelve," and that the bill as amended pass.

○

JOHN W. HINES.

FEBRUARY 20, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PICKLER, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 5712.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5712) granting increase of pension to John W. Hines, having carefully considered the same, respectfully report:

John W. Hines enlisted June 7, 1861, as private in Company C, First Kentucky Volunteer Infantry, and was discharged therefrom May 15, 1863. He reenlisted as first lieutenant in the Fourth Tennessee Volunteer Infantry January 2, 1864, and served to April 24, 1865, when he resigned.

February 24, 1891, he filed a claim under the old law alleging rheumatism contracted in the service. On August 21, 1892, the examining board finds him entitled to a first-grade rating for disability from said cause. He is pensioned under the act of June 27, 1890, at \$12, for rheumatism and resulting disease of the heart.

Almost every officer of the Pension Office who passed upon this claim under the old law recommended its allowance, but the re-reviewer says:

The claimant having declared that inflammatory rheumatism was contracted during his first service at Shiloh, Tenn., in April, 186—, and having made no other declaration under oath as to origin, it appears that the evidence of the existence of rheumatism during the service as first lieutenant and adjutant of the Fourth Tennessee Volunteer Infantry is not sufficient to warrant the allowance as of that origin and that rank.

And for this reason the claim was rejected.

As to origin, Lieutenant-Colonel Patterson, in command of the Fourth Tennessee, testifies:

In January, 1865, my command was ordered on forced march from Knoxville, Tenn., to Paintrock, N. C. It rained on us nearly all the time and we were marching day and night, wading many small streams and creeks, also Big Pigeon River and the French Broad River. Much ice was floating on these rivers and we had to wade them, the water coming to our armpits, and we had, what little camping we did, to lie on the frozen ground. From this exposure and hard marching Lieut. John W. Hines was again attacked with his old disease—diarrhea—and also with an attack of inflammatory rheumatism. The two disabilities together rendered him unfit for duty for a long time afterwards. I remember that a great many of the men were affected and unfit for duty for some time afterwards. I am one of them.

The then major, afterwards lieutenant-colonel in command of the same regiment, says:

John W. Hines * * * was with the regiment in all its marches and exposures when able for duty. * * * I have read Col. M. L. Patterson's statement made for Mr. Hines and indorse the same as fully as if here restated.

The testimony as to continuance is full and complete.

This case was several times specially examined, and on October 8, 1894, the examiner says:

The claimant's general standing in the community, and his reputation for truth are good. I find him a very much broken-down man—unable to dress himself. * * *
The claim has merit.

December 15, 1894, another special examiner recommended the case for admission for rheumatism.

On April 23, 1894, the chief of the board of review says:

The rheumatism appears to be established as of army origin, if not in Kentucky service.

The claim was rejected on a mere technicality.

Your committee think the claimant is entitled to at least \$30 per month, whether he claims as private or first lieutenant, and therefore respectfully recommend the passage of the bill.

C

JOHN COOMBS.

FEBRUARY 20, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ANDERSON, from the Committee on Invalid Pensions, submitted the following

R E P O R T:

[To accompany H. R. 950.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 950) granting increase of pension to John Coombs, late a member of Company H, Second Illinois Light Artillery, having carefully examined all the facts and circumstances in evidence, submit the following report:

Soldier served from December 1, 1861, until July 29, 1865. He filed claim and was pensioned, receiving \$24 per month since April, 1889, for injury of back and left leg and varicose ulcers, disease of gums and loss of teeth, result of scurvy contracted in service. He filed claim for increase June 17, 1895, which was rejected.

Dr. J. M. Dennis and Dr. F. M. Stiles, both reputable citizens and excellent physicians, testify that claimant is wholly disabled for performing any kind of manual labor from the disabilities for which he is pensioned, and the board of examining surgeons at Hopkinsville, Ky., who examined him August 14, 1895, certified:

Claimant is so disabled from disease of left leg and varicose ulcers and disease of gums and loss of teeth, as result of scurvy, as to be incapacitated for performing any manual labor.

In addition to his pensioned disabilities the soldier is now blind in one eye and almost blind in the other eye, and is practically helpless.

In view of all the facts we believe him entitled to a pension of \$30 per month. We therefore recommend that the bill (H. R. 950) be amended by striking out all after the word "Coombs," in the sixth line, and inserting in lieu thereof the following words "late a member of Company H, Second Regiment Illinois Light Artillery, at the rate of thirty dollars per month, in lieu of the pension he is now receiving."

MARY E. HAZLIP.

FEBRUARY 20, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ANDREWS, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 138.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 138) granting an increase of pension to Mary E. Hazlip, having examined the same, respectfully report:

It appears that the soldier served in Company H, One hundred and fortieth Regiment New York Volunteer Infantry, from August 16, 1862, to June 3, 1865, when he was mustered out with his company, and that he has an honorable record.

He was pensioned under general law at \$4 per month for gunshot wound of right shoulder, and also under act of 1890 at \$12 per month, and that the latter pension was terminated February 6, 1891, by reason of the pensioner's death, which is believed to have resulted from the effects of a bullet or other missile lodged in the right shoulder during the war of the rebellion, although this was not conclusively proved to the satisfaction of the Pension Office.

Dr. M. D. Bedal was called in on consultation just before the soldier's death, and says in his affidavit that, from statements made to him by the attending physician, Dr. S. B. Taylor, and the family of the soldier, he believes that said "soldier died from the effects of a bullet or other missile lodged in the right shoulder during the war of the rebellion, and as that fact was not disputed no post-mortem examination was had." Dr. S. B. Taylor is now dead, and therefore his affidavit can not be secured.

Your committee believe that the claim is a just one and therefore recommend the passage of the bill.

ANNIS H. ENOCHS.

FEBRUARY 20, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. KERR, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 4275.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4275) to increase the pension of Annis H. Enochs, widow of Bvt. Brig. Gen. William H. Enochs, from \$20 per month to \$50 per month, submit the following report:

William H. Enochs was mustered into service as first lieutenant Company K, Fifth West Virginia Volunteers, to date September 15, 1861, to serve three years; as captain Company E, same regiment, to date April 19, 1862; as lieutenant-colonel, same regiment, to date September 29, 1863; as colonel, same regiment, to date December 23, 1864, and was mustered out and honorably discharged with the field and staff July 21, 1865.

Under the provision of the act of Congress approved June 3, 1864, and the acts amendatory thereof, he is considered by this Department as having been commissioned to the grade of colonel of the said regiment to date from December 19, 1864.

The medical records show that W. H. Enochs, lieutenant-colonel Fifth West Virginia Volunteers, was dangerously wounded, being shot through the body in action September 19, 1864.

He was brevetted brigadier-general of volunteers March 13, 1865, "for gallant and meritorious services."

After careful consideration of the merits of this bill, your committee are of opinion, in view of the brilliant military record of the late General Enochs, who served constantly in the field from September, 1861, until the close of the late war, that the allowance asked for the benefit of his widow is by no means extravagant, and they therefore recommend that the bill do pass.

The widow has no sufficient means of support. Appended is a report from the War Department, giving the military record of General Enochs.

Statement of the military service of William H. Enochs, brevet brigadier-general of volunteers.

William H. Enochs was mustered into service as first lieutenant Company K, Fifth West Virginia Volunteers, to date September 15, 1861, to serve three years; as captain Company E, same regiment, to date April 19, 1862; as lieutenant-colonel, same regiment, to date September 29, 1863; as colonel, same regiment, to date December 23, 1864, and was mustered out and honorably discharged with the field and staff July 21, 1865.

Under the provisions of the act of Congress approved June 3, 1884, and the acts amendatory thereof, he is considered by this Department as having been commissioned to the grade of colonel of the said regiment to date from December 19, 1864.

The medical records show that W. H. Enoch, lieutenant-colonel Fifth West Virginia Volunteers, was wounded in action September 19, 1864.

He was brevetted brigadier-general of volunteers March 13, 1865, "for gallant and meritorious services."

By authority of the Secretary of War:

F. C. AINSWORTH,

Colonel, United States Army, Chief Record and Pension Office.

RECORD AND PENSION OFFICE,

War Department, December 30, 1895.

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BYRON COTTON.

FEBRUARY 20, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BAKER, of Kansas, from the Committee on Invalid Pensions, submitted the following

R E P O R T:

[To accompany H. R. 1022.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1022) to increase the pension of Byron Cotton, late of Company A, Twenty-fourth Iowa Infantry Volunteers, to \$72 per month, having carefully considered all the facts and circumstances in evidence, recommend that the bill be amended by striking out the words "seventy-two," in the sixth line, and inserting the word "thirty" in lieu thereof, and as amended recommend the passage of the bill.

The bill was favorably reported by the committee in the Fifty-third Congress, but the bill died on the Calendar.

Your committee adopt the report made by Mr. Lacey on February 19, 1895, as follows:

Byron Cotton, of Company A, Twenty-fourth Iowa Infantry, enlisted on the 8th day of August, 1862, and served until the 27th day of May, 1865. He applied for a pension under the general laws and was placed upon the rolls at \$4, which was afterwards increased to \$12, for gunshot wound of left leg and injury to face and right eye, and resulting disease of eyes and impaired hearing of both ears.

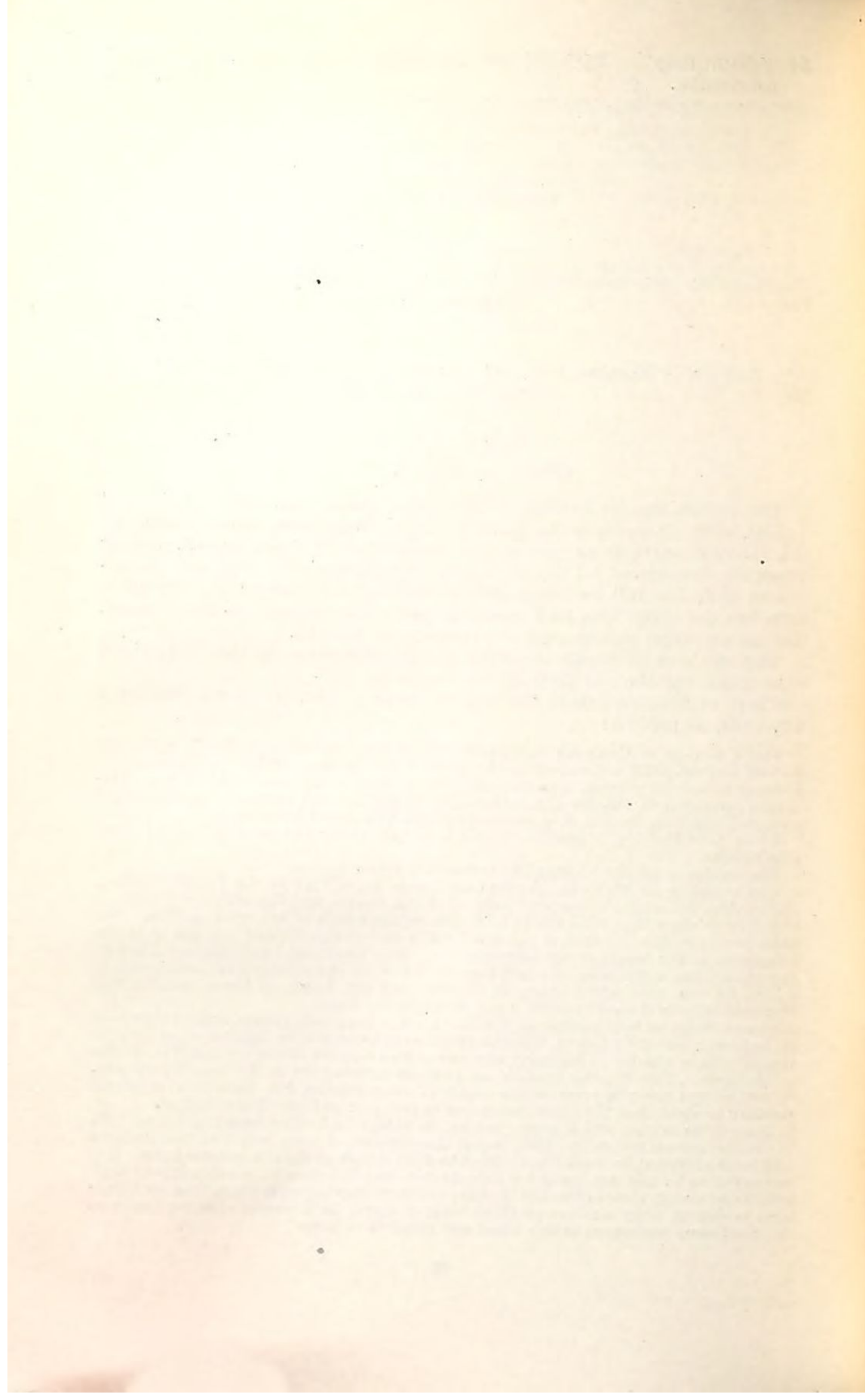
He is now drawing a pension of \$12 a month under the general law for those disabilities.

The soldier is totally blind, and has been for several years.

The evidence on file in the claims (certificate No. 82771) in the Pension Bureau shows that the soldier's eyes were injured in the service, and the evidence also tends strongly to show that his present blindness is the result of his army service. The evidence upon this question is not sufficient to satisfy the Pension Bureau that the blindness is the result of his army service. Mr. Hayes, of Iowa, appeared before the committee, explaining the helpless condition of the soldier and the esteem in which he was held while living in Clinton, and Mr. Long, of Iowa, making like statements as to the said soldier while living at Ottumwa.

The evidence as to the origin of the blindness is very voluminous, and we therefore do not set it out fully herein, but the evidence is quite strong, tending to show that the blindness was due to his army service and was a result of his pensionable disease of the eyes. The Pension Bureau, on grounds satisfactory to the medical officers, do not accept the blindness as the result of army service, but there is no evidence tending to show that the blindness is due to any vice or fault of the soldier.

The soldier is poor and is supported by his wife, who keeps a boarding house. He is totally and permanently blind, and if the evidence of army origin of his blindness had been accepted he would be entitled to \$72 a month under the general laws. But inasmuch as he has not made his title clear to the full rate of pension due to total blindness, and in view of the fact that the evidence does strongly show that his blindness is due to army service, we think that it would be a proper case for Congress to grant some assistance to this blind and helpless veteran.



SOPHRONIA S. STOWELL.

FEBRUARY 20, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SULLOWAY, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 5996.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5996) for the relief of Sophronia S. Stowell, submit the following report:

David P. Stowell was mustered in as major of First Maine Cavalry October 31, 1861. He was granted leave of absence October 13, 1862, for thirty days on surgeon's certificate of disability, on account of inflammation of liver and kidneys. On November 25, 1862, his leave was extended for thirty days on another medical certificate, which showed that he was still suffering from inflammation of liver and kidneys. He was discharged to date December 4, 1862, before his leave expired, but the records, which are incomplete, furnish no further evidence of disability. He filed a claim on June 30, 1880, for disease of kidneys and injury of head which caused deafness in right ear. He was pensioned at \$6.25 per month for disease of kidneys from date of discharge until September 15, 1881, when it was made to end on the ground that the disability therefrom had ceased.

Major Stowell died July 26, 1884, and his widow, the beneficiary of this bill, filed a claim February 25, 1885, which has been rejected by the Pension Office and the rejection affirmed on appeal by the Secretary of the Interior on the ground that soldier's death resulted from chronic gastritis, not due to cause which has been legally accepted. Origin and continuance of disease of kidneys have been legally admitted. As has been stated, the records show that the soldier had disease of kidneys in the service and also disease of the liver, which is closely connected with the stomach. The testimony of Capt. Isaac G. Virgin shows that soldier had disease of stomach in service, as well as disease of liver and kidneys. There is other evidence of disease of stomach in service. Dr. Charles A. Coolidge, in an affidavit filed March 7, 1887, testified as follows:

Soon after discharge, within a month I think, I was called to treat Major Stowell and found him suffering from stomach trouble, with much inflammation of stomach, indigestion, etc., and continued to treat him year by year, and in his last sickness. His stomach trouble did not yield to treatment, but gradually grew worse and was the main cause of his death. In my opinion the kidney trouble aggravated the trouble with the stomach and contributed more or less to his death. His death, in my judgment, was caused by gastritis. I have no doubt but that the exposure in the Army, together with the climate and water, was the first and real cause of the difficulties that finally caused his death.

Dr. Coolidge testified in an affidavit filed March 13, 1884, that "his chronic kidney troubles have borne upon him with great severity for the past year, and he is now in a critical situation." Dr. A. L. Stanwood testifies that he knows soldier's death was caused by kidney disease, accompanied by gastritis. Dr. C. B. Bridgham testifies that soldier first came under his treatment in 1869, suffering with nephritis and dyspepsia, prescribed for him every year until his death. For two years prior to his death was his attending physician. That disease of stomach and kidneys increased, resulting in Bright's disease, which caused death.

The only really adverse testimony in the claim is that of Dr. Coolidge, who has tried to create the impression that soldier's death was due to intemperance, in which he succeeded to such an extent that the widow's claim was once rejected on that ground, but it was proved on special examination beyond the shadow of a doubt, by the testimony of the best people in the town where he lived, that the soldier was not an intemperate man.

Dr. Coolidge subsequently swore that he did not intend to create such an impression. He is shewn by the report of a special examiner to be so biased against the claim that he can not and will not lay aside his bias and testify fairly. However the doctors may disagree on other points, they agree that soldier's death was due to causes arising in the service.

Abundant unimpeached and unimpeachable testimony shows that soldier contracted disease of stomach, liver, and kidneys in line of duty in the service, that he suffered continuously with disease of stomach and kidneys until his death occurred as a result of one or the other or of both combined.

Your committee therefore recommend that the bill be amended by adding after the word "Cavalry" the words "and pay her a pension of twenty-five dollars per month," and that the bill as so amended do pass.

WILLIAM H. MAHONEY.

FEBRUARY 20, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DOWNING, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 900.]

The Committee on Claims, to whom was referred the bill (H. R. 900) to provide for the payment of the claim of William H. Mahoney, submit the following report:

Under and by virtue of an act of Congress approved March 2, 1861, entitled "An act to provide for the payment of expenses incurred by the Territories in the suppression of Indian hostilities therein in the years 1855 and 1856," the United States issued its bonds for the payment of such expenses, one of which said bonds for the sum of \$500, with interest, was issued March 24, 1862, and made payable to one Thomas Pritchard. Said bond by its terms became due and payable July 1, 1881. On June 20, 1862, this bond (No. 1358) was duly assigned by said Pritchard to one N. A. Rodgers. In a short time after the assignment of the bond, said Rodgers, without indorsement, transferred it to W. G. Bloomfield, a sea captain, for passage money for himself and two other persons from San Francisco to some place in Mexico. Said W. G. Bloomfield had a limited education, and he took said bond from said N. A. Rodgers in payment of such passage money without knowing the necessity of obtaining his indorsement thereon.

Said W. G. Bloomfield retained the bond in his possession from the time he received it until his death, in 1868. At his death the bond went into the possession of his widow, Mary G. Bloomfield, who held the possession of the same until her death, in 1884.

At the time W. G. Bloomfield received the bond there were attached to it twelve or fifteen coupons, all of which were paid to his widow. At the death of the widow the bond came into the possession of the children of said W. G. Bloomfield, to wit: Alice G. Mahoney, Mary G. Newell, and W. G. Bloomfield, who recently assigned all their interest in said bond to William H. Mahoney, the claimant.

Your committee have carefully examined this claim, and are fully satisfied that William H. Mahoney is the owner of the bond and is entitled to have it paid to him. We, however, recommend that the bill be amended by adding, after the word "Act," in line 18, page 2, the following words: "and upon the said W. H. Mahoney giving a good and sufficient bond in the penal sum of one thousand dollars to hold harmless the United States against repayment of said lost bond, to be approved by the Secretary of the Treasury."

B. J. VAN VLECK.

FEBRUARY 20, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MINOR, of Wisconsin, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 2687.]

The Committee on Claims, to whom was referred the bill (H. R. 2687) for the relief of B. J. Van Vleck, administrator, having had the same under consideration, beg leave to submit the following report, which was made to the Fifty-first, Fifty-second, and Fifty-third Congresses, which we adopt:

[House Report No. 790, Fifty-second Congress, first session.]

The Committee on Claims, to whom was referred the bill (H. R. 4311) for the relief of B. J. Van Vleck administrator, having had the same under consideration, beg leave to submit the following report:

This claim was before the Committee on Claims of the Fifty-first Congress and was favorably reported by said committee in said Congress, which report so fully covers the facts in the case that your committee reproduce it entire and adopt it as their report.

[House Report No. 1330, Fifty-first Congress, first session.]

The object of the bill is to pay the claimant the sum of \$4,520.20, being a balance alleged to be due for extra work on the locks of the St. Marys Falls Canal, in Michigan. The committee addressed the War Department for information and received in reply information as follows:

WAR DEPARTMENT,
Washington, March 22, 1890.

SIR: I return herewith House bill 4983, for the relief of B. J. Van Vleck, administrator of Henry Van Vleck, deceased, referred to this Department on the 4th instant, and invite your attention to the inclosed letter from the Chief of Engineers, dated the 20th instant, and a report on this subject from Col. O. M. Poe, Corps of Engineers, dated the 17th instant, which contains all the information of record in his office in this claim.

Very respectfully,

REDFIELD PROCTOR, *Secretary of War.*

Hon. W. G. LAIDLAW,
Chairman Committee on Claims, House of Representatives.

OFFICE OF THE CHIEF OF ENGINEERS, UNITED STATES ARMY,
Washington, D. C., March 20, 1890.

SIR: I have the honor to return herewith letter of the 4th instant from the chairman of the Committee on Claims of the House of Representatives, requesting information touching propriety of passage of House bill 4983, Fifty-first Congress, first session, "A bill for the relief of B. J. Van Vleck, administrator of Henry Van Vleck, deceased," and beg to say that the papers were referred to Col. O. M. Poe,

Corps of Engineers, the officer at present in charge of the St. Marys Falls Canal. Colonel Poe's report is submitted herewith and contains all the information in his office concerning the matter.

Very respectfully, your obedient servant,

THOS. LINCOLN CASEY,
Brig. Gen., Chief of Engineers.

Hon. REDFIELD PROCTOR,
Secretary of War.

UNITED STATES ENGINEER OFFICE,
34 West Congress Street, Detroit, Mich., March 17, 1890.

SIR: Concerning House bill 4983, current session, entitled "A bill for the relief of B. J. Van Vleck, administrator of Henry Van Vleck, deceased," transmitted to me by indorsement, dated Office Chief of Engineers, March 10, 1890, for report, I have to submit the following, viz:

From the records of this office it appears that under date of October 2, 1880, Major Weitzel, the representative of the Government in the Van Vleck contract of May 11, 1876, reported to the Chief of Engineers upon a claim for extra compensation for work done and materials furnished for the improvement to which that contract relates. The amount of the claim as presented was \$23,280.05, and after a full investigation and consideration of the several items of the claim, Major Weitzel expressed the opinion that the claimant was entitled to the sum of \$4,520.20.

Under date of November 23, 1880, the Chief of Engineers transmitted to Major Weitzel, for his information and guidance, a copy of an opinion of the Judge-Advocate-General of the Army on the case, in which this officer stated as his conclusion "that the amount approved may legally be paid the contractor as a payment within the terms and equity of the contract." In this conclusion the War Department concurred. Based upon this action of the Judge-Advocate-General and of the Secretary of War the Chief of Engineers instructed Major Weitzel that the sum of \$4,520.20 is authorized to be paid to Mr. Van Vleck, and you will please settle with him on the basis of your report. While the claim was still under consideration by Major Weitzel—that is to say, prior to his report of October 2, 1880—certain persons who asserted an interest in the matter appealed to him for information in regard to the progress being made in the settlement of the claim. Among these were Mr. James Bellows and Mr. J. Lord.

This came to the knowledge of Van Vleck, who, under date of May 24, 1880, informed Major Weitzel that he had not given Mr. Bellows any authority to go to Detroit and settle the matter. At the same time he formally notified Major Weitzel that he would not recognize any settlement or payment of moneys on the claim to anyone but "myself," and revoked all powers of attorney theretofore given by him to any person whatsoever to act for or represent him in any manner, or to receive any moneys due him arising out of the execution of his contract for furnishing cut stone for St. Marys Falls Canal improvement. From this and other similar records, I infer that there was some controversy as to the person or persons who were to be ultimately benefited by the payment of whatever sum should be found due the contractor on final settlement.

The immediate effect of this controversy was, doubtless, to put Major Weitzel on his guard, and when the amount which was equitably due upon the claim had been determined, and its payment authorized by the War Department, he sought to obtain Mr. Van Vleck's own signature to proper vouchers. I am informed, but with what degree of accuracy I do not know, that when the matter had reached this stage Mr. Van Vleck was absent from the United States, and it was impracticable to complete the vouchers. Under date of March 25, 1881, Mr. J. Lord, of Pittsford, N. Y., wrote Major Weitzel as follows:

"I learn there is a balance due on the Van Vleck contract for furnishing the cut stone for St. Marys Falls Canal Lock amounting to about \$4,520.20. Will you pay the balance to me on the Van Vleck power of attorney which is filed in the War Department?"

To this question Major Weitzel made reply under March 28, 1881, as follows:

"I have received your letter of March 25, 1881. I am authorized by a letter from the Chief of Engineers, dated November 23, 1880, to pay Mr. Henry Van Vleck the sum of \$4,520.20, for extra work on his contract. You have filed a power of attorney, which I have. He has filed a letter denying that he ever authorized anyone to draw money for him. He has not called for his balance. I do not know how I could safely pay it to you."

If the accounting officers of the Treasury will pass the account, and I have an order from the Secretary of War to pay it to you, I suppose I would be safe. I find upon the records here a copy of a communication dated June 4, 1881, from Major Weitzel to the Chief of Engineers, in which he gives a short, but clear, account of

the case, incloses copies of papers (some of which are not on the records of this office), and asks instructions.

While there is nothing of record to show directly that the matter was then referred to the accounting officers of the Treasury, yet there is found a copy of a decision dated July 21, 1881, by the Third Auditor of the Treasury, in which he expresses the opinion that the work done was not authorized as required by contract, and the claim, therefore, is outside its provisions and for unliquidated damages, and can not be entertained by the accounting officers of the Treasury.

The claim was therefore disallowed by him, and the papers were referred to the Second Comptroller for his official action. The Second Comptroller concurred with the Third Auditor in disallowing the claim. The foregoing embodies all the information in this office bearing upon the claim and its present status. The whole may be summed up in a few words, viz:

The War Department has recognized as both legal and equitable a claim to the extent of \$4,520.20. The Treasury Department has held that the claim is neither legal nor equitable.

The papers referred to me are herewith returned.

All of which is respectfully submitted.

O. M. POE,

Colonel of Engineers, Brevet Brigadier-General, U. S. A.

The CHIEF OF ENGINEERS, U. S. A.,

Washington, D. C.

The foregoing are substantially the reports submitted to the Fifty-first, Fifty-second, and Fifty-third Congresses, and your Committees on Claims, after a careful and conscientious examination of a complete set of documents and papers in the case, find the facts as above set forth to be clearly established.

A summary of documents filed with the claim shows the following state of facts:

(1) Henry Van Vleck was the Government contractor for finishing stones used in the construction of the locks at St. Marys Falls Canal.

(2) That Major Weitzel was in charge of said work, and was the authorized agent of the United States Government for the prosecution and completion of said work.

(3) That it was found necessary during the progress of the work to change the plans and specification for work and material.

(4) That Major Weitzel, as the legally constituted agent of the United States Government for the prosecution and completion of said work, did direct the said Henry Van Vleck to do additional and extra work from that contemplated in the original contract, and for such extra and additional work so directed to be done by the said Major Weitzel, the said Henry Van Vleck was promised full and fair compensation, with 10 per cent added for superintendence.

(5) Compensation was promised by Major Weitzel, engineer in charge, who was by law and by direction of the War Department authorized to contract for this extra labor and material.

(6) That the said Henry Van Vleck did do and perform all work required of him by Major Weitzel, and to his entire satisfaction, as shown by a personal letter from that officer to the Chief of Engineers of the United States Army.

(7) That said work amounted to \$4,520.20, which amount was allowed and by the War Department ordered paid to Henry Van Vleck.

(8) But before said Van Vleck could report to receive his check the auditing officers of the Treasury Department refused to pass the accounts, for the reason that the supplementary contract was not in writing, but was an oral contract made by Major Weitzel, who alone, as engineer in charge, was authorized to incur this additional expense of \$4,520.20. The committee recommend the passage of the bill after being amended as follows:

Strike out all after the word "Michigan" in the tenth line of the bill.

GEORGE C. ELLISON.

FEBRUARY 20, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HANLY, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 3377.]

The Committee on Claims, having in charge the petition of George C. Ellison, praying to be reimbursed and indemnified for loss of salary withheld and for expenses incurred in his defense in and during a prosecution growing out of the discharge of his duties as chief engineer of the House of Representatives of the Forty-fifth Congress, and having considered the proofs, vouchers, and testimony in relation thereto, do report as follows:

First. The committee find as facts established in this case—

(1) That said George C. Ellison was appointed as chief engineer of the House of Representatives of the Forty-fourth Congress, after and pursuant to the result of a stringent, critical, and competitive examination as to character and qualifications, and that he was not appointed for political reasons.

(2) That he entered upon the discharge of his duties and was proven to be a careful, capable, and proper person for the position of chief engineer.

(3) That in the discharge of his duties under such appointment he was required to give his constant and unremitting attention to his responsible trust. See report and verified letter of Capt. William W. Wood, chief of Bureau of Steam Engineering, dated March 23, 1880, as follows:

WASHINGTON, D. C., *March 23, 1880.*

DEAR SIR: I have the honor to acknowledge the receipt of your letter of the 22d instant requesting me to furnish you with a verified statement as to my knowledge of the steam apparatus, etc., for ventilating and heating the House of Representatives, location of rooms, and the care and attention necessary for security, etc., on the part of the chief engineer of the same.

In reply I have respectfully to inform you that some time since it became necessary for me to familiarize myself with the character and location of this heating and ventilating apparatus above referred to in detail, the location of the boiler and engine-rooms, passages, and chambers in which are erected the heating batteries or radiators, etc., together with the fan, forcing and exhaust blowers, all of which are located in the subbasement of the south wing of the Capitol building.

The care and attention necessary for security in the management of this apparatus when in operation demand at all times the most rigid and careful conduct of competent men, under the supervision of skillful and experienced engineers, especially in the boiler room, where neglect in this respect by absence or incompetence might result in great disaster and loss of life and Government property by explosion, perhaps equal in its consequences to the discharge of a mine or gunpowder.

Constant and unremitting attention on the part of the chief engineer and his subordinates is the only guarantee against accidents and the disastrous consequences which might result from explosion or derangement.

That under no circumstances should the engineer, upon whom devolve for the time being the responsibility, care, and management of this department absent himself without proper and competent relief, that the supervision necessary to maintain its efficiency and avoid danger be at all times exercised.

I am, respectfully, your obedient servant,

WM. W. W. WOOD,
Chief Engineer, late Engineer in Chief, United States Navy.

Hon. RICHARD CROWLEY,
United States House of Representatives.

DISTRICT OF COLUMBIA, ss:

In verification of the above the writer, Wm. W. W. Wood, personally appeared before me, notary public in and for the District of Columbia, and states that he is at present a chief engineer in the Navy of the United States, and late Engineer in Chief of the Bureau of Steam Engineering of the Navy Department, and the opinion given in the above letter of reply to the Hon. Mr. Crowley, made at the request of the latter, is true to the best of his knowledge and belief.

[SEAL.]

A. C. RICHARDS, *Notary Public.*

(4) That during said Ellison's term or occupancy of the office of chief engineer, to wit, on the 7th day of March, 1877, and at various times prior thereto, one David Small, a former employee in Ellison's Department, made threats of killing said Ellison, or of doing him great bodily harm, because he thought Ellison had been instrumental in procuring his discharge; that the reason of the discharge of said Small was his intemperance and improper conduct, unfitting him for the discharge of his duties, as shown by the letter of Hon. George M. Adams, Clerk of the House of Representatives, and by letter of Edward Clarke, Architect of the United States Capitol, dated May 4, 1880, annexed and marked Exhibits A and B, respectively.

(5) That on the 7th day of March, 1877, said David Small, while under the influence of intoxication (see affidavits of Wm. M. Long, May 19, 1879; of Joseph Reese, May 20, 1879; and of Eppa Norris, May 30, 1879, annexed, and marked C, D, and E, respectively), forcibly invaded the engine room in the subbasement of the Capitol, where said Ellison was engaged in the discharge of his official duties as an officer of the House of Representatives, and renewed threats upon and against Ellison, which he, said Small, had repeatedly made to others, and which had come to the knowledge of Ellison. (See affidavit of William M. Long, Joseph Reese, cit. supra, and of Capt. Robert H. Ryan, May 27, 1870, and of Rev. Thomas W. Conway, of April 29, 1880, annexed and marked Exhibits F and G, respectively.) That Ellison, under the circumstances, had grave reason to apprehend assassination or great bodily harm from said Small at this time; that Ellison endeavored to avoid both conflict and controversy with said Small on this occasion; that Ellison retreated from Small, who was shown to be physically a much larger man than Ellison; that, according to the affidavit of Eppa Norris, the only witness to the encounter, Small continued to advance on Ellison with threats, his right hand in his pocket behind, as if to shoot, and his left hand violently gesticulating; that Ellison picked up a wooden ax-handle and ordered Small out of the engine-room; that Small refused to go, when Norris, the affiant, "jumped aside, thinking Small was going to shoot," and Ellison, being unable to prevent Small's continued threatening advances as if to shoot him, struck Small one blow with the ax-handle and knocked him down; that Small got up and left the engine room, making further threats against Ellison as he departed; but Ellison made no further attempt to strike Small; that Small's conduct was violent and unjustifiable, and, by his interference with Ellison while on duty as chief engineer, he imperiled the property of the Government,

and even the lives of Ellison and other citizens, officials, and Members of Congress in the Capitol to a degree that was highly perilous. (See affidavit cited, testimony in case of *The United States vs. Ellison*, and letter Wm. W. Wood, Chief of Bureau of Steam Engineering, given above.) That for these reasons the act of Ellison was in the line of his duty to protect life and property, both of himself and others, Members of the House; that at the time of this transaction Ellison was acting under the orders or rules of the House of Representatives and of his superior officers in remaining on duty as such chief engineer. (See House Rules and Regulations for Employés and Officers.)

(6) That for several days after the encounter aforesaid, said Small went about, continuing dissipated, and in about fifteen days from said 7th day of March, died.

(7) That thereupon said Ellison voluntarily surrendered himself for trial and was indicted for the murder of said Small, and was thereupon suspended as chief engineer, April 1, 1878.

(8) That in the latter part of December, 1877, an assistant of Mr. Ellison was appointed by the Speaker of the House as Ellison's successor.

(9) That after two trials, both of which resulted in a failure to convict Ellison of murder, or of any other lesser offense, a *nolle prosequi* was, with the approval of the court, and upon the recommendation of the President of the United States, entered on the 20th of November, 1878. (See letter of Rev. Stephen H. Tyng, jr., to Rev. Dr. Lanahan, dated November 13, 1878, and recommendation entered thereon by President Hayes.) Annexed and marked Exhibit H.

(10) That not only was it shown that Ellison acted in self-defense, but Judge Andrew Wylie, who tried the case, in a conversation with Rev. Dr. Lanahan, but more especially in a letter to the Hon. Stephen L. Mayham, filed in evidence annexed and marked Exhibit I, *clearly and distinctly states that Ellison acted in self-defense.*

(11) That during the pendency of said trials, and up to the 19th of March, 1879, Ellison was willing to discharge the duties of his office as chief engineer. That up to the filing of Ellison's petition, no official notice of discharge had been given to Ellison.

(12) That on or about the date last aforesaid Ellison was duly appointed to and entered upon the discharge of his duties as clerk to the Committees on Agriculture, Manufactures, and Militia, of the House of Representatives.

(13) That in and about his defense of said prosecution under such indictment said Ellison was necessarily subjected to great cost and expense. (See summary of expenditures.)

(14) That by reason of his suspension from the discharge of his duties as chief engineer, from April 1, 1877, to await the result of the proceedings against him, said Ellison was deprived of his pay and salary as such officer, which salary was fixed at the sum of \$1,700 a year.

II.

Upon the facts aforesaid, as established by documentary and other proofs before us, the committee find, as resulting from these facts, the following conclusions:

(1) That George C. Ellison, on the 7th day of March, 1877, being on duty as chief engineer of the House of Representatives, and acting under the orders, rules, and regulations of the House, was justified or

exonerated from blame in defending himself, his position, his duties, and the momentous trusts confided to him, even to the extent of knocking down Small, as he did. That he was not guilty of any crime, but was acting properly, as the emergency seemed to require, as an officer and employé of the House. But one blow was struck, and that in defense, and this defense of himself was in defense of the House likewise; and no malice or misconduct as an officer or as a man was shown on Ellison's part. (See letters of Rev. Dr. Lanahan of May 26, 1879, with addition by Hon. Andrew Wylie, the judge before whom Ellison was tried, and of Judge Wylie to Hon. Stephen L. Mayham, dated March 22, 1880, annexed and marked Exhibit J.)

(2) That it is the duty of the House of Representatives to protect and preserve the safety and efficiency of its officers and employés so long as they are acting in the line of their duties, or whenever they may be required, in great emergencies to do acts not held or found to be unlawful, for their personal and official protection, while in the discharge of their duties, or to enable them to properly discharge such duties; and that such duty to protect and defend its officials and employés extends to the duty of reimbursing such officials and employés for any and all expenses properly and necessarily incurred in and about such duties, or lawful, or unusual and not unlawful acts demanded by the exigencies of the situation for the proper and efficient discharge of their duties; and we consider this principle as justly applicable to Ellison's case.

The following precedents fully warrant this rule, and in the case acted upon by the House favorably on the 17th of February, 1881, the principle is carried to the case of acts held by the Supreme Court to be unlawful:

[PRIVATE—No. 29.]

AN ACT for the relief of General John C. McQuiston and Jeremiah D. Skeen, of Indiana.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to John C. McQuiston and Jeremiah D. Skeen, of Indiana, out of any money in the Treasury not otherwise appropriated, the sum of two thousand dollars, to reimburse them for expense incurred in satisfaction of a judgment recovered against them in the Ripley circuit court in favor of Jerome Huntington, upon a charge of false imprisonment, founded upon an arrest made by the said John C. McQuiston, as provost-marshal of the fourth district of Indiana, and Jeremiah D. Skeen, his deputy, while acting under the order of General Baker, the provost-marshal of the State of Indiana, and Brigadier-General Wilcox.

Approved February 27, 1871.

(16 U. S. Stat., 683, chap. 75.)

[PRIVATE—No. 34.]

AN ACT making an appropriation to satisfy a judgment obtained against Grenville M. Dodge, late an officer of the United States, and others, for acts done by them in the line of their duty.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of five thousand dollars, or as much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to enable the Secretary of War to satisfy a judgment obtained against Grenville M. Dodge, late an officer of the United States, and others, for acts done by them in the line of their duty, under orders from their superior officers, and to defray the costs of defending the suits at law in which such judgment was recovered.

Approved May 6, 1870.

(16 U. S. Stat., 638, chap. 97.)

[PRIVATE—No. 101.]

AN ACT for the relief of the family of the late John T. King and of L. B. Cutler.

Whereas John T. King, lately employed as a carpenter and cabinetmaker about the Capitol, while in the discharge of his duties, was killed by an explosion of gas in the closet under the eastern stairway of the Senate, leaving a wife, three children, two grandchildren, and a mother-in-law without any means of support; and

Whereas L. B. Cutler, principal assistant in the folding room of the Senate, was so injured at the same time and under the same circumstances as to be disabled for life, leaving a wife without means of support and a mother to whose support he has partly contributed: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of three thousand dollars for the aid and support of the family of the late John T. King, and the further sum of three thousand dollars for the aid and support of L. B. Cutler, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be paid to the Secretary of the Interior in trust for the above-mentioned purposes, who may, at his discretion, pay the same to the respective parties in annual installments, or all in one payment, or invest the same for their use and benefit, as he may think most expedient.

Approved July 19, 1876.

(19 U. S. Stat., 455, chap. 215.)

On March 3, 1877, second session Forty-fourth Congress, Journal of the House, page 678, Mr. Knott (the rules having been suspended for the purpose) submitted the following resolution, which was received, considered, and agreed to, viz:

Resolved, That the Sergeant-at-Arms of the House be hereby authorized to retain counsel in the cause in which Hallet Kilbourn is plaintiff and John G. Thompson and others are defendants, for the purpose of prosecuting or defending, as the case may be, the cause aforesaid in the Supreme Court of the United States.

On June 23, 1874, House Journal, first session Forty-third Congress, page 1321, Jeremiah N. Wilson, by unanimous consent, submitted the following resolution, which was received, considered, and agreed to, viz:

Resolved, That the House assume the defense of the Speaker and Sergeant-at-Arms in the suits against them by Joseph B. Stewart for alleged false imprisonment while in custody, under the order of the House, as a recusant witness in February, 1873, recently decided against Stewart by the supreme court of the District of Columbia, and the expenses of said defense be paid by the Clerk from the contingent fund, upon the approval of Committee on Accounts.

Under resolution of August 9, 1876, to pay W. M. Merrick and W. H. Tuscott and Henry W. Garnett, counsel for defense in the case of Hallet Kilbourn *versus* Michael C. Kerr and others, \$2,250 were appropriated, one-half of which only may be paid to them by the Clerk of the House of Representatives during the progress of the suit. (See 19 U. S. Statutes, 225, chap. 36.)

On March 3, 1877, the House passed the following:

Resolved, That the Clerk of the House pay, and is hereby authorized and directed to pay, out of the contingent fund, to George C. Ellison, chief engineer of the House of Representatives, \$100 to indemnify him for moneys expended by him and incurred by him in and about certain legal proceedings in defending the title and retaining the possession of certain property belonging to the National Government in his custody as an officer of the House of Representatives. (See House Journal, second session Forty-fourth Congress, page 287.)

On March 1, 1879, Senate passed the following:

Whereas S. S. Blackford, in the proper discharge of his duties as captain of the Capitol police, while making an arrest in the Capitol on the 26th day of December, 1878, was seriously injured, having the top bone of his right arm, and only arm, fractured and his arm otherwise disabled, so as to render him almost entirely helpless for a period of more than six weeks, and from the result of which injuries he may never recover: Therefore,

Resolved, That the Secretary of the Senate be and he is hereby authorized and directed to pay to the said S. S. Blackford, out of the contingent fund of the Senate, the sum of \$500, to enable him to pay for medical and other expenses incurred on account of said injuries.

See Record of March 1, 1879.

IN THE HOUSE OF REPRESENTATIVES.

JANUARY 31, 1881.—Read twice, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. CULBERSON introduced the following bill:

A BILL to provide for the adjustment of costs and expenses in certain judicial proceedings.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of three thousand three hundred dollars be, and is hereby, appropriated for the payment on account of fees to this date to Frank H. Hurd, in the case of Hallet Kilbourn *versus* John G. Thompson, out of which the said Hurd shall pay all fees of associate counsel and expenses of printing and costs adjusted in the Supreme Court in this case.

[House Report No. 153, 46th Congress, 3d session,]

FEBRUARY 4, 1881.—Referred to the Committee on Accounts and ordered to be printed.

Mr. CULBERSON, from the Committee on the Judiciary, submitted the following report (to accompany bill H. R. 7071):

The Committee on the Judiciary, to whom was referred the bill (H. R. 7071) to provide for the adjustment of the costs and expenses in certain judicial proceedings, respectfully report:

That Frank H. Hurd was regularly retained in the case of Hallet Kilbourn *vs.* John G. Thompson *et al.* by the Sergeant-at-Arms of the House, under a resolution passed March 3, 1877; that since that time Mr. Hurd has given the case attention, making the last argument in the case in the last term of the Supreme Court of the United States.

The committee find that the costs and expenses of printing and of attendance upon court from Ohio amounted to about \$400, and that the sum of \$800 ought to be paid the local assistant counsel in the case.

The committee therefore recommend that the sum of \$3,300 be appropriated to Frank H. Hurd, from the contingent fund in the House, to pay the costs, expenses, and fees in the said case of Kilbourn *vs.* Thompson *et al.*

They further recommend that the bill be referred to the Committee on Accounts, and the following resolution be adopted by the House:

Resolved, That the sum of \$3,300 be, and the same is hereby, appropriated to pay Frank H. Hurd for all costs, expenses, and fees in the case of Hallet Kilbourn *vs.* John G. Thompson *et al.*

Such a principle has not only been frequently applied in other cases, but it is the only one consistent with the dignity, safety, and order of the House of Representatives or of any legislative body; and it is proper to add that, owing to the delicate, highly responsible, and unremitting character of the duties of the chief engineer of the House of Representatives, that officer and his position appeal most strongly for the fullest and most effectual protection and support to the House, in every possible case where it is consistent with his duties, to accord him protection and support. It is but proper to state that no officer who ever held the position of chief engineer of the House ever obtained it under more honorable circumstances, or discharged its duties more satisfactorily and efficiently than Mr. Ellison, the claimant in this case, as was shown by the special investigation reported to Congress in House Report No. 841 of the first session of the Forty-fourth Congress, dated August 15, 1876. With this kind of an officer, and in the light of all the facts, we are clearly of the opinion that it is the duty of Congress to reimburse Mr. Ellison the amount of his necessary and proper costs and expenses incurred in his defense in the trials above referred to.

This case was reported favorably by the Committee on Claims of the Forty-sixth and Forty-seventh Congresses, and the foregoing facts are substantially those embraced in the reports of those committees. The accounts of the claimant, as presented to and reported by those committees, are appended to this report.

From these accounts your committee has deducted his expenses in jail, the expenses of wife, sons, and daughters in coming to and returning from Washington and boarding here, the expenses telegraphing witnesses, the expense of securing bail and indemnifying sureties, and a great part of the expense for expert (medical) testimony.

We recommend that a bill appropriating to said George C. Ellison the sum of \$5,000 in full of his claim be reported by this committee; and we recommend the passage of the bill herewith reported.

APPENDIX.

EXHIBIT A.

HOUSE OF REPRESENTATIVES,
Washington, D. C., March 20, 1880.

DEAR SIR: Will you please inform me, as a member of the House Subcommittee on Claims, whether or not you discharged one David Small, an employé of the engineer's department of the House; and if so, state when and for what reason or reasons he was discharged.

An early reply will oblige yours, very truly,

RICHARD CROWLEY,
Of Committee on Claims.

Hon. GEO. M. ADAMS,
Clerk of House of Representatives.

CLERK'S OFFICE, HOUSE OF REPRESENTATIVES,
March 23, 1880.

Respectfully returned, with the statement that the within-named David Small was discharged on the 1st day of April, 1876, by reason of violent and intemperate conduct, for which there was no sort of excuse or palliation.

GEO. M. ADAMS, *Clerk.*

EXHIBIT B.

ARCHITECT'S OFFICE, UNITED STATES CAPITOL,
Washington, D. C., May 4, 1880.

SIR: In reply to yours, just received, I will state that a few days before David Small, assistant engineer and acting electrician of the House of Representatives, was dismissed, he did violently break open the door to the electric-battery room, in the central portion of the Capitol.

I was called upon to have the repairs made to the door in question, and was also informed by Mr. Small that he did the damage, claiming that no one had the right to lock that room against him.

Respectfully, yours,

EDWARD CLARK,
Architect United States Capitol.

H. H. GOODLOE, Esq.,
Clerk to the Committee on Claims, House of Representatives.

EXHIBIT C.

Affidavit of Wm. M. Long.

DISTRICT OF COLUMBIA, *City of Washington*, ss:

Personally appeared before the undersigned authority, a justice of the peace in and for said District, duly appointed, sworn, and qualified according to law, William M. Long, who, being first duly sworn, doth depose and say: That on the 7th day of March, A. D. 1877, he was standing at the head of the stairway leading down to the

engine rooms of the House of Representatives at 4 o'clock p. m. of said day, when David Small and Charles A. Stewart come along, and Small said he was going down stairs, and Mr. Joseph Reese, who was also present, said to them, Where are you going, boys? and Small replied: We are going down to "lay out" that damned galoot, Ellison; that Reese then replied to him, Boys, you had better not go down there, you have both been drinking, and that you would have trouble; that you were not on good terms with that man; and the reply was that they did not care, that they could shoot as fast as he could, and they passed on down the stairs toward the engine room, and, in about ten minutes after, affiant says he saw said Small going out of the east door of the basement of the Capitol, and said that Ellison had got the best of him, and that it was not done with yet; that he would be square with him yet.

WM. M. LONG.

Subscribed and sworn to before me this 19th day of May, A. D. 1879.

[SEAL.]

GEO. F. GRAHAM, *Notary Public*.

EXHIBIT D.

Affidavit of Joseph Reese.

DISTRICT OF COLUMBIA, *City of Washington*, ss:

Personally appeared before me, the undersigned authority, a justice of the peace in and for said District, duly appointed, commissioned, and sworn, and qualified according to law, Joseph Reese, who resides in said city and has been a resident for many years, and who, being first duly sworn, deposes and says that he was well acquainted with the late David Small in his lifetime, and that on the 7th day of March, 1877, he was standing at the head of the stairs leading down to the engineer's rooms of the House of Representatives at about 4 o'clock p. m. of said day, when said David Small and Charles A. Stewart came along, and affiant said to them as they were about to go down said stairs, Boys, you had better not go down there—meaning the engine room; and Small said in reply, Do you think I am afraid of that galoot? and Stewart also said, I can shoot as fast as him or any other son of a bitch, and they then passed on down said stairs toward the engine room aforesaid, and they were both under the influence of liquor. Affiant says that his reasons for saying to said parties, You had better not go down there, was that he knew they were not on good terms with Geo. C. Ellison, the chief engineer of the House of Representatives, and thought that from the condition that they were in, both being under the influence of liquor, they had no business down there.

JOSEPH REESE.

Subscribed and sworn to before me this 20th day of May, A. D. 1879.

[SEAL.]

GEO. F. GRAHAM, *Notary Public*.

EXHIBIT E.

Affidavit of Eppa Norris.

DISTRICT OF COLUMBIA, *City of Washington*, ss:

Personally appeared before me, the undersigned authority, a justice of the peace in and for said District, duly appointed, commissioned, sworn, and qualified according to law, Eppa Norris, who, being duly sworn, doth depose and say that he has resided in said city for several years; that he was well acquainted with the late David Small in his lifetime; that on the 7th day of March, 1877, I was employed in the engineer's department, in the House of Representatives; that on said 7th day of March, 1877, at about 4 o'clock p. m. of said day, as I entered the private office of the chief engineer, I saw Small and Geo. C. Ellison, the chief, in said room close together. Small had his right hand in his pantaloons pockets and was gesticulating towards Ellison with his left hand in a very angry and threatening manner, and I heard Ellison say, "I have not mentioned your name in months;" and Small then called him a liar and used other abusive language, and Ellison backed off from him with his eyes fixed on Small, and said he wanted no trouble with him, and ordered him out of the office several times, and Small refused to go and started towards Ellison with his right hand still in his pocket. I jumped aside, thinking he was going to shoot, and as he advanced toward Ellison the latter struck him a blow over the head with an ax handle and knocked him down. Small then got up and said, "I will go out;" and walked to the door and turned around and said: "Ellison, you have got the best of me this time, but, damn you, I will have it out of you yet, you son of a bitch," and he then went off.

Affiant further says that there was no other person in the room but our three selves, and he is confident no other person could have seen the difficulty, owing to the situation of the engine rooms. Affiant further states that said Small was under the influence of liquor at the time, sufficiently so to make him ugly and quarrelsome. Affiant further says that he *was called in the first trial* as a Government witness, but was *not called* by the Government on the second trial.

EPPA NORRIS.

Sworn to and subscribed before me, a justice of the peace for the District of Columbia, this 30th day of May, A. D. 1879.

[SEAL.]

A. C. RICHARDS, J. P.

EXHIBIT F.

Affidavit of Robert H. Ryan.

DISTRICT OF COLUMBIA, *City of Washington*, ss:

Personally appeared before the undersigned, a justice of the peace in and for said District, duly appointed, commissioned, and qualified according to law, Capt. Robert H. Ryan, who, being first duly sworn, doth depose and say that he has resided in said city for many years; that he was personally acquainted with the late David Small; that a short time before the difficulty in the engine room between said Small and Chief Engineer Ellison, I met Small on the floor of the House of Representatives, in the morning; he showed me a lot of papers which he said he was going to use against Ellison for the purpose of having him removed. I replied that it was all bosh; that he had better let Ellison alone; that he could not have him removed on any such evidence; whereupon he replied that if he did not succeed in his purpose before Congress adjourned he would cut his damned guts out; whereupon I left him and went and told Ellison what Small had said, and advised him to be on his guard; that he was a dangerous man.

ROBERT H. RYAN.

Subscribed and sworn to before me this 27th day of May, A. D. 1879.

[SEAL.]

SAM. M. WILCOX, *Justice of the Peace*.

EXHIBIT G.

Affidavit of Rev. Thomas W. Conway.

DISTRICT OF COLUMBIA, *City of Washington*, ss:

Personally appeared before the undersigned authority, a justice of the peace in and for the said District, duly commissioned, sworn, and qualified according to law, Thomas W. Conway, who, first being duly sworn, doth depose and say, that in the winter of the year 1877, or during the "electoral count," I was in this city. I went to the Capitol, and, being eager to get in on the floor of the House of Representatives, inquired for Mr. Geo. C. Ellison, then engineer of the House, whom I had known previously, hoping he would be able to help me in on the floor. I asked the doorkeeper for Mr. Ellison. A man who was a stranger to me, and who was standing near the door at which I hoped to enter, hearing me call for Mr. Ellison, said to me, "Do you know that son of a ——?" I said "Yes." He seemed very angry, and remarked, "D——n him, I'll have his life yet." I think I quote his exact language. I was admitted to the floor of the House and told Ellison of what transpired. He replied, "He is probably drunk, but he is a bad man," or a "dangerous" man, I do not remember which. The man called his own name "Small," and I ascertained that he was the party who was afterwards struck by Mr. Ellison.

THOMAS W. CONWAY.

Subscribed and sworn to before me this 29th April, A. D. 1880.

A. C. RICHARDS, J. P. [SEAL.]

Affidavit of W. J. McCord.

DISTRICT OF COLUMBIA, *City of Washington*, ss:

Personally appeared before me, the undersigned authority, a notary public in and for the said District of Columbia, duly sworn and qualified according to law, W. J. McCord, who, first being duly sworn, doth depose and say that he is and was well acquainted with Geo. C. Ellison, who was chief engineer of the House of Representa-

tives during the year 1877, and that he was a faithful and efficient officer, but that in consequence of a personal difficulty with David Small in the engine rooms said Ellison was *suspended* from his office about the 1st of April, of that year, *to await the result of the trial* in the District of Columbia on a charge of murder of said Small.

Affiant further says that he was the clerk of the doorkeeper up to about the time of suspension.

W. J. McCORD.

Subscribed and sworn to before me this 6th day of June, A. D. 1879.

[SEAL.]

D. CARRIGAN, *Notary Public*.

Affidavit of Elijah T. Keightley.

STATE OF INDIANA, *Johnson County*, ss:

Personally appeared before me, the undersigned authority, a justice of the peace in and for said county, duly sworn and qualified according to law, Elijah T. Keightley, who, being first duly sworn, doth depose and say that he is and was well acquainted with George C. Ellison, who was chief engineer of the House of Representatives of Congress in the year 1877, and that he was a faithful and efficient officer, but that in consequence of a personal difficulty which he had with one David Small in the engine room said Ellison was suspended on or about the 1st of April, 1877, *to await the result of his trial* in the District of Columbia on a charge of the murder of said Small.

Affiant further says that he was the assistant doorkeeper of said House of Representatives at the time of said suspension.

ELIJAH T. KEIGHTLEY.

Edinburg, Ind., June 2, 1879.

Subscribed and sworn to before me this 3d day of June, 1879.

PETER SMOCK, *J. P.*

EXHIBIT H.

Letter of Rev. Dr. S. H. Tyng, jr., to Dr. Lanahan, with indorsement of President Hayes.

RECTOR'S STUDY, CHURCH OF THE HOLY TRINITY,
Madison avenue and Forty-second street, November 13, 1878.

MY DEAR BROTHER: The case of Mr. Ellison seems to me to ask for a careful and judicious examination on the part of the Government. Surely a man should not be kept longer in such suspense after two unsuccessful attempts to convict him. I was a witness on the first trial to Mr. Ellison's character, and am ready to indorse him most fully again. His family and he are suffering severely for what I can only regard as a justifiable act of self-defense. He has exhausted his means in previous trial expenses. Unless there is new evidence of which we know nothing, it would seem to me and others with whom I have conversed that a "*nolle*" should be entered. Can you in anywise bring this matter to the notice of the President? It seems to me a proper case for private examination and action on his part. If it will advance the interest of justice and humanity, I will go on to Washington with Rev. Dr. Reid and urge the matter in person.

Faithfully, yours,

STEPHEN H. TYNG, Jr.

Rev. Dr. LANAHAN.

[Indorsement.]

I am told that Judge Wylie, who tried the case of Ellison, thinks the case ought to be dismissed, and that there can never be a conviction. This is, I think, authentic. If so, the case ought to go off the docket in some way.

R. B. H.

EXHIBIT I.

Letter of Hon. Andrew Wylie.

WASHINGTON, *March 22, 1880.*

MY DEAR SIR: Your favor dated January 22 last, from the Ebbitt House, was never seen by me till this morning. It came to my house, doubtless, while I was at court, and was mislaid.

I do not suppose that you desire that I should make a statement at length of the evidence, or even of the facts which were proven on the trial of the United States *vs.* Ellison. I shall therefore merely give at present the conclusion to which my mind was brought by the evidence in that case.

The defendant was tried for the murder of a man named Small. (I believe this was the name of the deceased.) Ellison's character had always been excellent, and at the time of the homicide he filled a place of confidence and trust at the Capitol. Small had previously been an employé there in a place subordinate to that of Ellison, and had been removed. He was a person of violent temper and intemperate habits. He thought Ellison had been instrumental in having him removed, and had made threats against the latter, which had been told to Ellison. One morning he entered Ellison's room at the Capitol and made demonstrations which, taken in connection with the threats, were well calculated to create alarm in Ellison for his personal safety. Ellison sprang up from the sofa where he was lying, seized a billet of wood, and struck Small on the head. Small fell, but soon got up again and went away, no one supposing that the injury was fatal. He was drinking pretty hard for several days afterwards, but went about the city. It turned out that the skull had been fractured, and at the expiration, I think, of about nine days he died.

I thought, from all the evidence, that Mr. Ellison had good reasons for apprehending great bodily danger from the deceased, and that it was a case of justifiable homicide, and of that opinion was the jury.

It is always nearly a misfortune to be obliged to take human life even in self-defense, but in this instance I think Mr. Ellison should be held to have been without reproach.

Truly, yours,

ANDREW WYLIE.

Hon. S. L. MAYHAM.

EXHIBIT J.

Letter of Rev. John Lanahan.

WASHINGTON, D. C., May 26, 1879.

DEAR SIR: In my conversation with Hon. Judge Wylie, before whom your case was investigated, he said that you never could be convicted upon the evidence before him. I asked him how far I might use his statement. He answered that I might use it as I pleased.

Respectfully,

JNO. LANAHAN.

GEO. C. ELLISON, Esq.

I feel a sincere pleasure in certifying that Dr. Lanahan, in the above letter, has made a perfectly correct report of what I said to him on the occasion to which he refers.

ANDREW WYLIE.

Vouchers and accounts of George C. Ellison.

(First trial.)

WASHINGTON, D. C., June, 1879.

The following is a true itemized account of expenses incurred by George C. Ellison in defending himself while on trial for the alleged murder of David Small, in supreme court of the District. Case called May 2, 1877:

To Col. William A. Cook, chief counsel in case, including services of three medical experts in case.....	\$1, 450. 00
To Joseph E. Hayden, associate in same case.....	800. 00
To legal services in New York, H. B. Stanton.....	100. 00
To legal services, Charles P. Shaw.....	100. 00
To expenses in jail (seventy days).....	250. 00
To expenses of wife, sons, and daughters in coming to and returning from Washington, and boarding while here.....	250. 00
To expenses telegraphing witnesses.....	47. 00
To M. A. Clancy, professional stenographer, making verbatim reports	310. 25
To securing (\$12,000) bail and indemnifying surety.....	525. 00
Mileage, witnesses fees, and board.....	992. 09
First trial.....	4, 824. 34

(Second trial.)

WASHINGTON, D. C., *June, 1879.*

The following is a true itemized account of expenses incurred by George C. Ellison in defending himself while on trial the second time for the alleged murder of David Small. Case called June 20, 1878:

To Col. W. A. Cook, chief counsel.....	\$1, 000. 00
To Hon. Stephen L. Mayham, counsel	1, 000. 00
John Swinburn, M. D., expert.....	551. 20
J. Harry Thompson, M. D., expert.....	500. 00
D. W. Bliss, M. D., expert	250. 00
Robert Reyburn, M. D., expert.....	250. 00
W. S. Wells.....	250. 00
S. A. H. McKimm.....	25. 00
Wife, sons, and daughters' expenses to and from Washington, and board while here	250. 00
Telegraphing witnesses	38. 00
Professional stenographer taking testimony (\$250 not claimed).....	00. 00
Julius Veidt, account making diagram of engine rooms.....	52. 00
To mileage and fees of witnesses and expenses of same	655. 25
Second trial	4, 821. 45
First trial	4, 824. 34
Total.....	9, 645. 79

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HEIRS OF JAMES BRIDGER.

FEBRUARY 20, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DOWNING, from the Committee on Claims, submitted the following

REPORT:

[To accompany S. 82.]

The Committee on Claims, to whom was referred the bill (S. 82) for the relief of the heirs of James Bridger, deceased, having had the same under consideration, beg leave to report the same with the recommendation that it pass.

The Senate Report No. 80, Fifty-fourth Congress, first session, fully sets forth the facts, and your committee adopt the same and make it a part of this report.

[Senate Report No. 80, Fifty-fourth Congress, first session.]

In the Fifty-third Congress a bill (S. 217) for the relief of the heirs of James Bridger was favorably reported by this committee in the language of this bill and was passed by the Senate, but no final action was had in the House.

Your committee have again duly considered said bill and hereby readopt said Report No. 329, Fifty-third Congress, second session, and report the bill back to the Senate without amendment and recommend its passage.

Said report is as follows, to wit:

The Committee on Claims, to whom was referred the bill (S. 217) for the relief of the heirs of James Bridger, deceased, having had the same under consideration, beg to submit the following report:

A similar bill has been reported frequently from this committee favorably. The bill during the last Congress was accompanied by Senate Report No. 625.

Your committee hereby readopt said report and report back the bill (S. 217) without amendment and recommend its passage.

Senate Report No. 625, Fifty-second Congress, first session.

Mr. MITCHELL, from the Committee on Claims, submitted the following

REPORT:

[To accompany S. 1198.]

Your committee, to whom was referred the bill (S. 1198) entitled "A bill for the relief of James Bridger or his legal representatives," having had the same under consideration, beg to submit the following report:

This claim was originally much larger than that stated in the bill, and is for the value of alleged improvements constructed by James Bridger at Fort Bridger, and for the rent of certain premises at that point occupied by the United States Army and subsequently appropriated by the United States for its own use.

On the 14th of September, 1888, the Senate of the United States adopted a resolution directing the Secretary of War to make a thorough investigation of this claim. In pursuance of this resolution, S. B. Holabird, Quartermaster-General, U. S. Army, was directed by the Secretary of War to make the examination. On the 16th day of January, 1889, he submitted his report to the Secretary of War, of which the following is a copy:

WAR DEPARTMENT,
QUARTERMASTER-GENERAL'S OFFICE,
Washington, D. C., January 16, 1889.

SIR: Referring to your communication of the 18th of September last, transmitting Senate resolution of the 14th of that month, which directs the investigation of the claim of James Bridger for the value of the improvements constructed by him at Fort Bridger (and the rent of said premises by the United States Army), appropriated by the United States for its own use, etc., and a report of the amount equitably due, together with the evidence, for the consideration of the Senate, etc., I have the honor to state that in the fall of 1857 a portion of the United States Army under the command of Brig. Gen. Albert S. Johnston, on what is known as the Utah or Mormon expedition, went into camp at or near Fort Bridger, in Green River County, Utah.

This so-called fort was a trading establishment, erected some fourteen years previous, for the purpose of and in connection with trade with surrounding Indians. Some thirteen log buildings were constructed, forming a hollow square, and surrounded by a solid stone wall about 18 feet high and 5 feet thick at the base. Outside of this were outhouses, and a corral about 200 feet square, also inclosed by a stone wall. (Exhibits 12 and 13.)

In November, 1857, the United States took possession of the premises under a lease or agreement made on the 18th of that month between said Bridger for himself and Louis Vasques, of the first part, and Capt. J. H. Dickerson, assistant quartermaster, U. S. Army, of the second part.

The premises covered by the lease comprised 3,893 acres, including the fort.

For the use thereof the United States agreed to pay the sum of \$600 per annum; but such payment was not to commence until Bridger established his title to the

land. The United States was to have the privilege at any time within ten years of purchasing the premises upon the payment of the sum of \$10,000. (Exhibit 4 C.)

No rental has been paid under said lease, doubtless because Bridger never did nor could establish his title to the premises. (Exhibits 4 D, 4 F, 4 G, and 4 I.) The Interior Department never "recognized any private claim in the vicinity of Fort Bridger" (Exhibit 4 G), and a military reservation embracing this tract was declared by the President in July, 1859. (Exhibit 4 I.)

The Mormon forces retired from the advance of the United States troops; but before they retired they "burned the buildings in and around Fort Bridger," so that when the United States took possession of the premises in question there were no improvements thereon, except "a high, well-built, strong stone wall, inclosing a square of 100 feet." (Exhibit 2.)

It is true that several persons, some twenty or thirty years after the event, state that when Gen. Johnston arrived at Bridger there were at the fort a number of log-houses and other improvements of the value of from \$20,000 to \$30,000. (Exhibits 6, 7, 8, 14, 15, and 19.)

These persons are unquestionably mistaken. They have probably confounded the affairs then existing with those which existed before the destruction of the buildings by the Mormons.

This conclusion is inevitable, because Gen. Johnston, in making his report immediately upon taking possession of the premises, distinctly stated that the buildings had been burned; and besides, he could not have overlooked, if they had existed, fifteen or twenty buildings, particularly as shelter for troops, as winter was approaching, and for supplies for his army were so much needed. (Exhibit 2.)

And again, Mr. Bridger would not have consented, as he did (Exhibit 4 C), to sell to the United States for the sum of \$10,000 improvements said to be of the value of \$20,000 to \$30,000, and also the 3,898 acres of land which he claimed to own, if such improvements existed when he executed the lease hereinbefore referred to.

I must, therefore, report that the improvements at Fort Bridger at the time in question which were appropriated by the United States for its own use consisted of the solid stone wall, 18 feet high and 5 feet thick at the base, inclosing a square of 100 feet. (Exhibits 2, 12, and 13.)

The wall was laid in cement (Exhibits 8 and 9) which was brought from the States at a very great expense on account of wagon transportation of 1,200 miles. A liberal allowance for the improvements therefore should be made, and I fix the sum as both just and generous at \$6,000.

No sum is recommended for rental or for value of the land, because the claimant did not own nor have any title to it (Exhibits 4 D, 4 G, and 4 I), and because rental was promised only when his title to it was established. (Exhibit 4 C.)

All the evidence and other papers in the case are herewith respectfully transmitted.

Very respectfully, your obedient servant,

S. B. HOLABIRD,
Quartermaster-General, U. S. Army.

The SECRETARY OF WAR.

LIST OF EXHIBITS IN THE CLAIM OF JAMES BRIDGER, GREEN RIVER COUNTY, UTAH.

EXHIBIT 1.—September 14, 1888. Resolution of the United States Senate, referring claim of James Bridger for value of improvements at Fort Bridger and for rent of premises to U. S. Army to the Secretary of War to investigate the justice and equity of claim, and to report to the Senate the amount and value of improvements, the circumstances, contracts, and agreements under which premises were taken, and the amounts paid and due on account of said claim.

EXHIBIT 2.—November 30, 1857. Col. A. S. Johnston, in a letter to Maj. I. McDowell, states that before leaving Fort Supply, on Smith's Fork, the Mormons burned the buildings in and about the fort and destroyed the grain, and, so far as they could, the other crops. Fort Bridger, so called, is a strong, high, and well-built stone wall, inclosing a square of 100 feet, and has been appropriated for storage of army supplies. Two lunettes, now under construction, one on the southwest and one on the northeast corner, will make the place defensible by a small force, and a safe place for storage.

EXHIBIT 3.—December 21, 1857. Capt. John H. Dickerson, assistant quartermaster, forwards to Quartermaster-General a lease of land claimed by Bridger; states that contract is so drawn that no payment is to be made until title is established.

EXHIBIT 4 A.—August 21, 1869. Claimant, in a letter to the Secretary of War, inquires what disposition Government intends to make of Fort Bridger; states that he leased the fort and grounds to the Government in 1857 for ten years at \$600 per annum, with privilege to purchase at expiration of lease for \$10,000; asks that rents be remitted to him.

EXHIBIT 4 B.—January 6, 1870. Claimant, in letter to Secretary of War, states that he rented Fort Bridger to the Government in 1857 for a term of ten years, at the expiration of which time Government had permission to purchase fort and grounds for \$10,000; asks what disposition is to be made concerning the matter.

EXHIBIT 4 C.—November 15, 1857. Lease between James Bridger (for himself and Louis Vasques), of Missouri, of the first part, and Capt. John H. Dickerson, acting quartermaster, U. S. Army, of the second part, for ten years, of a tract of land (3,898 acres and 2 rods) in Green River County, Utah, at \$600 per annum, with privilege of purchase, at any time during the continuance of lease, for \$10,000; any buildings erected on the land by the United States to remain and descend to party of the first part at expiration of contract. Payment of rental to begin whenever title is established. Contract to terminate three months after notification by the United States of its intention to vacate and discontinue the lease.

EXHIBIT 4 D.—April 19, 1870. Quartermaster-General Meigs reports to the Secretary of War that Mr. Bridger has never established his title to the premises; that it does not appear that he has ever been paid rent therefor; that the President has ordered a military reserve at the post.

EXHIBIT 4 E.—April 23, 1870. Judge-Advocate-General advises that Mr. Bridger be notified to furnish proof of his title to the land; if title be found complete, Congress be appealed to for authority necessary to enable the Secretary of War to purchase the property or to satisfy all rents due.

EXHIBIT 4 F.—April 25, 1870. Inspector-General, U. S. Army, informs Hon. R. T. Van Horn that whenever Mr. Bridger shall produce evidence of title to the satisfaction of the Government, the Department will carry into effect, in good faith, the agreement made in 1857.

EXHIBIT 4 G.—December 14, 1872. Commissioner of Land Office reports to the Adjutant-General, U. S. Army, that the Department never recognized any private claim in the vicinity of Fort Bridger; no law exists for adjustment of such claims under the treaty of 1848 with Mexico; the Territory not being organized at time of original military reservation, there was no way by which any other title could have been obtained.

EXHIBIT 4 H.—January 12, 1878. James Bridger, in letter to the Secretary of War, inquires whether the Government desires to retain possession of the property leased by him in 1857; requests that the rent due therefor be remitted to him.

EXHIBIT 4 I.—February 8, 1878. Quartermaster-General Meigs, in report to the Adjutant-General, states that it does not appear that Bridger has established his title; that a military reservation was declared by the President July 14, 1879, of 500 square miles, which was reduced February 15, 1872, to 16 square miles.

EXHIBIT 4 K.—May 17, 1880. Hon. Samuel L. Sawyer asks the Secretary of War whether certain improvements at Fort Bridger were made by Mr. Bridger at his own expense, whether any compensation has been made to him, and any other facts bearing upon validity of claim.

EXHIBIT 4 L.—May 22, 1880. Adjutant-General, U. S. Army, reports that the records do not show by whom or at whose expense the improvements were erected; states that the fort is to be reoccupied.

EXHIBIT 4 M.—June 4, 1880. Quartermaster-General Meigs repeats the terms of the lease; states that about \$20,000 have been expended during the past sixteen years for repairs, etc.

EXHIBIT 4 N.—January 21, 1886. The Secretary of War, in letter to the Committee on Claims, United States Senate, states that no record is found of a claim of James Bridger for improvements at Fort Bridger, Utah; that it appears that when occupied by the United States in 1857 all the buildings in and about the fort had been burnt by the Mormons, and that the only improvement was a high, well-built, strong stone wall inclosing a square of about 100 feet.

EXHIBIT 5.—October 27, 1873. Claimant, in letter to Gen. B. F. Butler, states that he was with, and piloted, the army of Gen. A. S. Johnston in the so-called Utah expedition; that he offered them the use and shelter of Fort Bridger for the winter; that he entered into a written contract with Capt. Dickerson, assistant quartermaster, by the terms of which Government was to have possession of the place for ten years (recites the terms of lease as heretofore); that shortly after the expiration of the lease he applied to the Secretary of War for information as to the intentions of the Government, and was advised that as soon as he established his title the Department would comply with its contract; states that he was authorized to establish the fort and settle Salt Lake Valley by the governor of Upper California; has no paper to show for it; that had he not leased the premises to the Government he would have resided thereon, and thereby perfected his title.

EXHIBIT 6.—April 27, 1878. A. J. Archambault swears that he was at the site of the present Fort Bridger in the spring of 1843, when James Bridger located his ranch or fort there; that it contained thirteen spacious and substantial log-houses, constructed of heavy hewn timber; the roofs and floors made of sawed boards; roofs

covered with sods to make them fire-proof; the houses formed a hollow square in the center of the fort, and the whole surrounded with a strong and solid stone wall; outside of the fort were six other log-houses built in the same manner; also strong corrals for the protection and safe-keeping of horses and cattle; claimant resided on the ranch for some time and claimed the premises as his home, and it was conceded by every one that he owned them and held them in undisputed possession.

EXHIBIT 7.—January 20, 1880. William T. Mack Craw swears that he knows that James Bridger resided at Fort Bridger with his family for many years; that the improvements thereon consisted of thirteen houses altogether, strong, hewed log-houses fortified by a stone wall 18 feet high and 5 feet thick, laid in cement; also a strong corral for stock, surrounded by a stone wall, with other outhouses, pasture fields, and grounds, costing at least \$20,000. Affiant understood that said James Bridger leased these premises to the Government.

EXHIBIT 8.—January 21, 1880. John Kinney swears that he was employed as teamster in conveying stores to the army of Gen. Albert S. Johnston in Utah in 1857; remained with the army at Fort Bridger several months; that there were on the premises thirteen houses constructed of heavy, hewn logs, plank floors, and roofs covered with sods; all inclosed by a stone wall laid in cement about 18 feet high by 5 thick, having bastions at each corner and inclosing about 4,000 feet of land; also a corral for stock about 200 by 300 feet square, likewise inclosed by a stone wall laid in cement, together with six outhouses, also built of heavy, hewed logs; pastures and grounds. In affiant's judgment said improvements could not have been placed there at a cost of less than \$20,000.

EXHIBIT 9.—January 21, 1880. O. H. P. Rippeto swears that he is well acquainted with claimant; that he was with the army of Gen. A. S. Johnston in 1857 as wagon master and remained with said army at Fort Bridger for some time; on arrival at the fort found valuable improvements, which consisted of thirteen houses built of heavy, hewn logs, floored with sawed planks, and covered with sawed planks and sods, inclosed by a stone wall, 18 feet high and 5 feet thick, laid in cement, with bastions at each corner, inclosing about 4,000 feet of land; also a strong corral for stock, about 200 by 300 feet square, inclosed in like manner by a stone wall laid in cement; together with six other outhouses and pasture and grounds; the whole improvement could not be placed at a less value than \$20,000.

EXHIBIT 10.—March 30, 1880. H. T. Childs swears that he was employed at Fort Bridger in 1857; that the improvements consisted of a number of heavy log-houses, fortified by a stone wall about 18 feet high, and having bastions at each corner, said wall inclosing a space of about 4,000 square feet; there was also a corral for stock, inclosed by a stone wall about 10 feet high, beside several log-houses outside the fort. The whole improvements could not have been placed there for a sum less than \$20,000.

EXHIBIT 11.—December 5, 1883, and January 9, 1884. Bill S. 380, first session, Forty-eighth Congress, authorizing James Bridger to commence suit in the Court of Claims against the United States within one year after passage of act, for value of improvements constructed by him at Fort Bridger, and appropriated by the United States.

EXHIBITS 12 AND 13.—January 9, 1884. Committee on Claims, United States Senate, report that about 1843 claimant located upon a tract of land in Green River County, Utah, and commenced the erection of a trading house and other buildings and improvements; from that date resided at post in trade with Indians until 1857; at that time there were thirteen log houses, forming a hollow square, surrounded by a solid stone wall, 18 feet high, 5 feet thick, laid in cement, with bastions at each corner; outside a corral for stock 200 by 300 feet square, also inclosed by a stone wall about 10 feet high, 2½ or 3 feet thick, together with six other outhouses. In 1857 the army of Utah, under Gen. A. S. Johnston, took possession of the premises on behalf of the United States under a lease executed by Capt. John H. Dickerson. The United States continued to occupy the premises from date of lease (November 8, 1857) to the present time, and are now enlarging with a view to permanent occupancy. Claimant has never established his title to the premises, and the committee recommend that he be permitted to go to the Court of Claims.

EXHIBIT 14.—May 17, 1886. Joseph T. S. Wright swears that in 1857 he was with the army of Gen. A. S. Johnston, at Fort Bridger; remained there until the next June. The improvements consisted of some thirteen log houses fortified by a stone wall laid in cement, 18 feet high and 5 feet thick, inclosing an area of about 4,000 square feet, a strong corral 200 by 300 feet square, also inclosed by a stone wall, 10 feet high by 2½ feet thick, with other outhouses, all costing about \$20,000. Bridger died six or seven years ago.

EXHIBIT 15. July 12, 1887. Joseph C. Irwin swears that he was with Gen. A. S. Johnston's army in 1857 when it reached Fort Bridger; that there were a number of strong houses surrounded by a strong stone wall of great height and thickness, with bastions at each corner, a corral for stock, similarly inclosed with a stone wall,

besides several other buildings and outhouses; thinks they were then and now worth \$25,000 or \$30,000.

EXHIBIT 16.—December 12, 1887. Bill S. 480, Fiftieth Congress, first session. For relief of James Bridger, or his legal representatives.

EXHIBIT 17.—Charles M. Carter, attorney for claimant, states that some ten or twelve affidavits filed in this case before Congress were lost. They set forth that James Bridger located in Green River County, Utah, in 1843, and built Fort Bridger, which consists of thirteen log houses forming a hollow square, surrounded by a stone wall, laid in cement, 18 feet high and 5 feet thick, with bastions at each corner. Outside of the wall was a strong corral for stock, about 200 by 300 feet square, also inclosed by a stone wall about 10 feet high by $2\frac{1}{2}$ or 3 feet thick, together with six other outhouses. Bridger was prevented from establishing his title by the President declaring the tract a military reservation July 14, 1859, and by loss of his agreement with the governor of Chihuahua, Mexico, who agreed to grant him about 5,000 acres in Green River County, which included Fort Bridger, in consideration of his planting a colony at that point. The improvements cost \$20,000.

EXHIBIT 18.—C. M. Carter, attorney for claimant, in argument before Committee on Claims, United States Senate, states that in 1843 the governor of Chihuahua promised James Bridger a grant of land in Green River County, Utah (then Mexican territory), to establish a colony, and that Bridger erected Fort Bridger, at an expense of \$20,000; that he was to plant the colony and retain possession of the country for a term of years before receiving his title. The Mexican war changed his plans, as the country became part of the United States. He felt easy and continued in possession until the Mormon troubles broke out, and the U. S. Army came in 1857 and quartered in his fort. Two years later the President declared the tract a military reservation.

EXHIBIT 19.—December 7, 1888. Daniel M. Ross swears that he was well acquainted with Fort Bridger in 1857 at the time the Utah army took possession of it. That it consisted of thirteen strong, substantial houses, surrounded by a solid stone wall, 18 feet high and 5 feet thick, with bastions at each corner; a strong corral for stock about 200 by 300 feet, inclosed by a stone wall about 10 feet high and $2\frac{1}{2}$ or 3 feet thick. There were also other outhouses. Thinks the whole must have cost at least \$30,000.

EXHIBIT 20.—January 12, 1889. C. M. Carter, attorney, in reply to office letter, states that it is impossible for him to obtain more definite evidence than that on file, for the reason that James Bridger and most of his witnesses are dead.

WAR DEPARTMENT,
Washington City, February 19, 1886.

SIR: Acknowledging receipt of your request of January 25, 1886, for copies of any papers bearing on the lease of the site of Fort Bridger to the United States by James Bridger, I have the honor to forward copies of papers found on the files of the Department concerning the matter.

I beg to suggest, in view of the frequent calls upon the Department for information in this case, that the accompanying papers and my letter to you dated January 21, 1886 (copy herewith), may be printed.

Very respectfully,

WILLIAM C. ENDICOTT,
Secretary of War.

Hon. AUSTIN F. PIKE,
Chairman of Committee on Claims, Senate.

WAR DEPARTMENT,
Washington City, January 21, 1886.

SIR: I have the honor to acknowledge the receipt of the communication of the clerk of the Committee on Claims, of December 21, 1885, inclosing Senate bill No. 287, Forty-ninth Congress, first session, and requesting copies of papers relating to the claim of James Bridger for the value of improvements erected by him at Fort Bridger, Green River County, Utah, appropriated by the Government.

In reply thereto, the Adjutant-General reports as follows:

"The records of this office afford no mention of a claim of James Bridger for the value of improvements by him erected or constructed at Fort Bridger, Utah, and appropriated by the United States to its own use. On the contrary, it appears from a report of General Albert Sidney Johnston, then commanding in Utah, dated November 30, 1857, that prior to the date of occupation of that point by the United States

all the buildings in and about Fort Bridger had been burned by the Mormons, and that all the improvements that were appropriated by the troops were a high, well-built, strong stone wall, inclosing a square of 100 feet. An extract from General Johnston's report is herewith."

Very respectfully,

WILLIAM C. ENDICOTT,
Secretary of War.

Hon. AUSTIN F. PIKE,
Chairman Committee on Claims, Senate.

EXHIBIT 2.

HEADQUARTERS ARMY OF UTAH,
Camp Scott (near Fort Bridger, Black's Fork, G. R.), November 30, 1857.

MAJOR: * * * The Mormons, before they retired, burned the buildings in and about Fort Bridger, and also Fort Supply on Smith's Fork, 12 miles hence, and destroyed the grain and, as far as they could, other crops at that place. Fort Bridger, so called, is a high, well-built, strong stone wall, inclosing a square of 100 feet, and has been appropriated for the storage of the supplies for the Army.

The addition of two lunettes, now being constructed, one on the southwest corner and the other on the northeast corner of a stone inclosure adjoining the main one, but not so high, will make it defensible by a small force and a safe place of deposit for the public property that may be left when the army advances.

* * * * *
With great respect, your obedient servant,

A. S. JOHNSTON,
Colonel Second Cavalry, Commanding.

Maj. J. McDOWELL,
Assistant Adjutant-General Headquarters of the Army.

EXHIBIT 3.

CAMP SCOTT, UTAH.
December 21, 1857.

SIR: I forward herewith a lease* of a tract of land claimed by James Bridger. He bases his claim to it on some Mexican or Spanish law, somewhat similar to the pre-emption laws of the United States. I think it exceedingly doubtful whether his title is good, but the contract is so drawn that no payment is to be made until he establishes his title. I have leased the property in order to prevent heavy reclamations on the Government for loss or destruction of private property in case his title is good.

There will most probably be a permanent post established in this immediate vicinity and the tract leased would be essential to it for wood, grazing, and procuring hay.

I will in a few days make and forward to you a survey for a Government reserve, embracing the timbered and grazing lands.

I am, general, very respectfully, your obedient servant,

JNO. H. DICKERSON,
Captain, Acting Assistant Quartermaster.

Maj. Gen. THOS. S. JESUP,
Quartermaster-General, U. S. Army.

WAR DEPARTMENT,
Washington City, January 20, 1880.

SIR: At the request of C. M. Carter, attorney for James Bridger, I inclose herewith a duly certified copy of contract* with James Bridger for a tract of land upon which Fort Bridger, Utah Territory, is situated, with copy of letter from Capt. Jno. H. Dickerson, assistant quartermaster, dated Camp Scott, Utah, December 21, 1857, transmitting the said lease.

Very respectfully,

ALEX. RAMSEY,
Secretary of War.

Hon. S. L. SAWYER,
House of Representatives.

EXHIBIT 4 A.

WESTPORT, Mo., *August 21, 1869.*

DEAR SIR: I would most respectfully apply to be informed what disposition the Government of the United States intends to make of Fort Bridger, which fort and grounds I have leased to the Government in the year 1857 for the term of ten years at the rate of \$600 per annum, with the privilege to purchase it at the expiration of said lease for the sum of \$10,000.

I would also respectfully apply to cause the rents accrued thereon to be remitted to me.

I have the honor to be, very respectfully, your most obedient servant,

JAMES BRIDGER.
Per A. WADSMAN.

The SECRETARY OF WAR,
Washington, D. C.

EXHIBIT 4 B.

WESTPORT, Mo., *January 6, 1870.*

DEAR SIR: I have the honor to represent to you most respectfully that in the year 1857 I have leased to the Government of the United States my fort (Fort Bridger, D. T.) at the following terms:

The lease was for a term of 10 years at the rate of \$600 per annum; also that after the expiration of said 10 years the Government may, at its pleasure, purchase said fort and ground for the sum of \$10,000. But in case the Government should not desire to make such purchase, it shall give to me peaceful possession of said fort and grounds with all improvements thereon. I would therefore most respectfully apply for information what disposition the Government intends to make concerning this matter.

Hoping to be favored with an early answer, I have the honor to be, very respectfully, your obedient servant,

JAMES BRIDGER.
Per A. WACHSMAN.

Address, Westport post-office, Missouri.

The SECRETARY OF WAR,
Washington, D. C.

Respectfully referred to the honorable Second Comptroller, U. S. Treasury, Washington, D. C., with request that he will please furnish this office with a certified copy of the lease herein referred to, the same having been forwarded to his office by the Quartermaster-General March 4, 1858.

These papers to be returned.

By order Assistant Quartermaster-General.

JAMES A. EKIN,
Deputy Quartermaster-General, Brevet Brigadier-General.

QUARTERMASTER-GENERAL'S OFFICE, *February 16, 1870.*

Respectfully returned to General James A. Ekin, Deputy Quartermaster-General, with a copy of lease inclosed as requested.

J. M. BRODHEAD,
Comptroller.

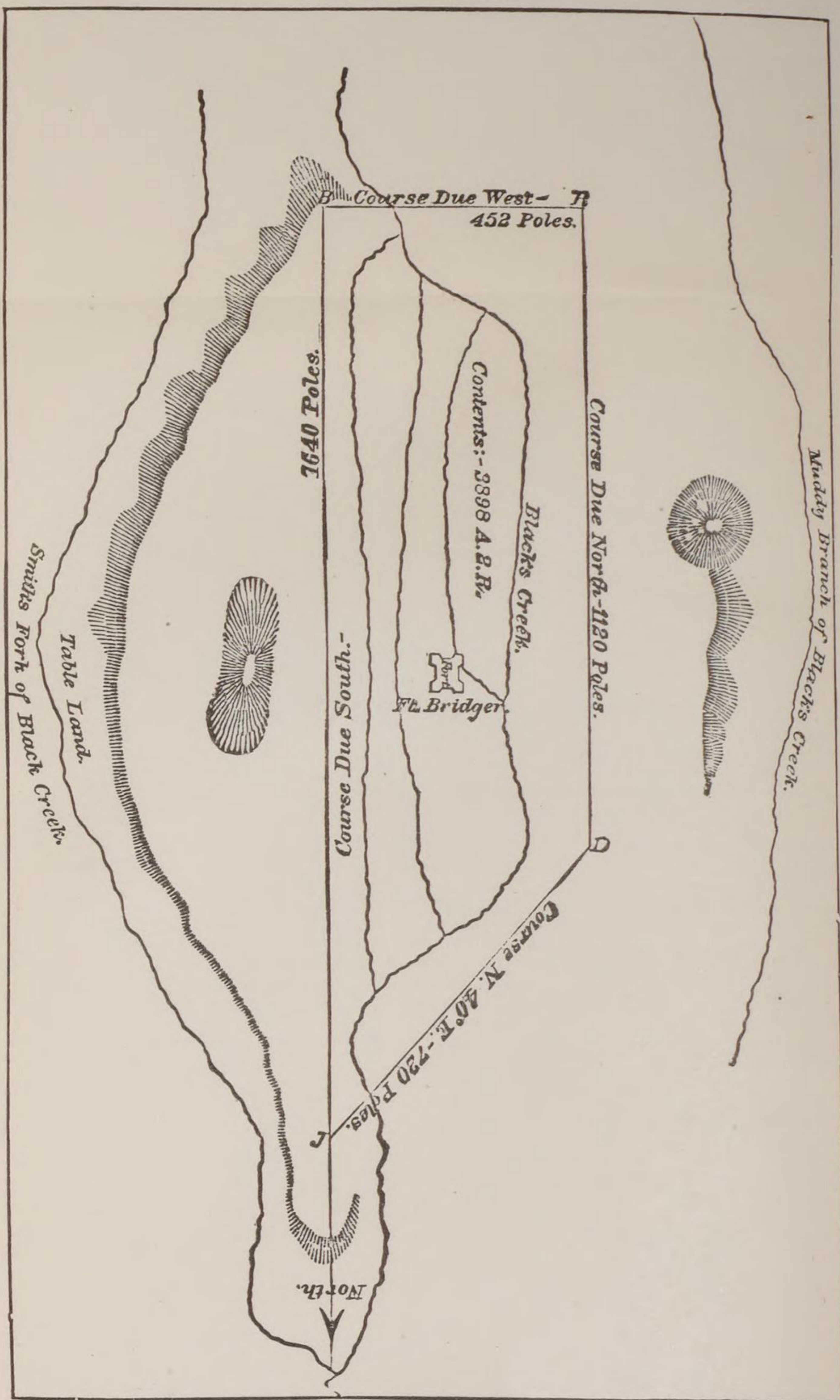
SECOND COMPTROLLER'S OFFICE, *February 19, 1870.*

EXHIBIT 4 C.

Articles of agreement made and entered into this eighteenth day of November, one thousand eight hundred and fifty-seven, between James Bridger (for himself and Lewis Vasquez), of the State of Missouri, of the first part, and Capt. Jno. H. Dickerson, assistant quartermaster, U. S. Army, on behalf of the United States, of the second part.

This agreement witnesseth that the said party of the first part, for and in consideration of promises hereinafter made by the said party of the second part, on behalf

A survey of land made for James Bridger, November 6, 1853, in the Territory of Utah and County of Green River.



JNO H. DICKINSON,
Capt. and A. Q. M., U. S. A.
his
JAMES X BRIDGER,
mark.

Beginning at the corner (marked "J" on the plat) on north side of Black's Fork 72 poles on a due south line from said stream, running thence due south 1,640 poles to a stone corner on east side of said Black's Fork (marked "B" on the plat), 160 poles from said stream on a due west line; thence due west 452 rods to a stone corner (marked "R" on the plat); thence due north 1,120 poles to a stone corner (marked "D" on the plat) on north side of Black's Fork, (marked "J" on the plat). Contents, 3,898 acres, 2 roods. Surveyed by John H. Hockaday.

Lewis Vasquez, Charles La Junesse, and James Bridger settled upon the land within site of Fort, as stated by Mr. Bridger.

GENERAL LAND OFFICE, March 9, 1854.

JOHN WILSON, Commissioner.

T. MITCHELL, Clerk.

A true copy of the original.

A true copy.

SECOND COMPTROLLER'S OFFICE, February 18, 1870.

H. Rep. 468—54—1

of the United States, leases, for a term of ten years, a tract of land consisting of 3,898 A. Q. R.) three thousand eight hundred and ninety-eight acres and two roods, situated in Green River County, Utah Territory, and is the same tract that is described in the plat hereunto annexed and signed by the two contracting parties, which plat in lines, words, and figures is a true copy of the original. The said party of the first part grants the free use of Fort Bridger, and all the timber, wood, stone, and whatever may be found above the ground or below the ground, within the limits of said tract of land, for any purposes to which the officers of the United States Government may wish to appropriate them.

The payments hereinafter promised to be made by the said party of the second part, on behalf of the United States, to commence whenever and so soon as the said party of the first part establishes his title to the said tract of land to the satisfaction of the Quartermaster-General of the U. S. Army, or whenever the Attorney-General of the United States shall pronounce the title good.

The said party of the second part promises on behalf of the United States to pay to the said party of the first part the sum of six hundred dollars per annum for the foregoing specified uses of said tract of land.

It is understood and agreed upon by the two contracting parties that any buildings that shall have been erected by the U. S. Government on the said tract of land, and shall remain standing at the expiration of this lease, shall descend freely and fully to the said party of the first part.

It is further understood and agreed upon by the two contracting parties that the United States Government, through its agents, shall have the privilege at any time within the period of this lease of purchasing said tract of land by paying the said party of the first part the sum of ten thousand dollars.

This contract to be null and void three months after the said party of the first part shall have been duly notified by the Quartermaster-General of the U. S. Army, or by his agent, that it was the intention of the United States Government to discontinue the lease of said tract of land.

In witness whereof we have hereunto set our hands and affixed our seals this day and year first above written.

[SEAL.]

his
JAMES X BRIDGER.
mark.

JNO. H. DICKERSON,

Captain and Assistant Quartermaster, U. S. Army.

In presence of—

A. T. A. TORBERT,
Second Lieutenant Fifth Infantry, U. S. Army.

CHAS. D. SCHMIDT,
Clerk, Quartermaster's Department.

EXHIBIT 4 D.

Respectfully returned to the honorable Secretary of War, together with copy of the lease herein referred to.

Mr. Bridger has never established his title to the premises.

It does not appear from the records of this office that the tract of land was ever taken up on any officer's Form 2, or that rent has ever been paid therefor under said lease.

A military reservation at this post was ordered by the President July 14, 1859.

M. C. MEIGS,
Quartermaster-General, Brevet Major-General, U. S. Army.

QUARTERMASTER-GENERAL'S OFFICE,
April 19, 1870.

Brief of James Bridger, Westport, Mo., relating to a lease of property to the Government, etc.

Respectfully referred to the Secretary of War with the request for such information as may enable me to answer properly the within inquiries, etc.

R. T. VAN HORN.

HOUSE OF REPRESENTATIVES,
April 21, 1870.

EXHIBIT 4 E.

[Indorsement.]

WAR DEPARTMENT,
BUREAU OF MILITARY JUSTICE,
April 23, 1870.

Respectfully returned to the Secretary of War.

It can only be advised in this case that Mr. Bridger (who represents himself as ignorant of the intentions of the Government in regard to this property) shall be forthwith notified to furnish an exhibit of his title to the land (as required in the lease as a condition precedent to his receiving payments of rent therefor), with the understanding that, upon his title being approved as perfect by the Attorney-General, the executive department of the Government will, if authorized by Congress, proceed to complete the transaction.

It is further recommended, therefore, that such proof of title as is furnished by Bridger be submitted at once to the Attorney-General for his opinion; and further, that if the title be found complete, Congress be appealed to for the authority necessary to enable the Secretary of War to purchase the property; or, if the purchase is not proposed, for an appropriation of a sufficient amount to satisfy all rents which may be due to Bridger under the lease.

J. HOLT,
Judge-Advocate-General.

EXHIBIT 4 F.

WAR DEPARTMENT,
Washington City, April 25, 1870.

SIR: The Secretary of War directs me to return to you the accompanying letter of James Bridger, esq., of Missouri, relative to the lease of Fort Bridger, Dak., and to inform you that whenever, as required by the agreement between himself and the United States, Mr. Bridger shall produce evidence of his title to the site of that military post, and the Attorney-General of the United States shall declare the title so exhibited to be perfect, this Department will be prepared to carry into effect, in good faith, the agreement made with Mr. Bridger by the military authorities in the year 1857.

Very respectfully, etc.,

ED. SCHRIVER,
Inspector-General.

Hon. R. T. VAN HORN,
Member of Congress.

EXHIBIT 4 G.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., December 14, 1872.

SIR: I am in receipt, by reference from you the 12th instant, of a letter from Henry N. Blake, attorney, to the honorable Secretary of War, dated 30th October last, inquiring if the United States ever leased Fort Bridger, Utah, for twenty years or any other term from William C. Brown.

In reply I have to state that there is nothing on file in this office showing that any lease of Fort Bridger, or any part thereof, was ever made with Mr. Brown, his name not even appearing in a plat of survey filed in this office in 1854 by James Bridger, who claimed in accordance with said private survey executed by J. M. Hockaday.

This office has never recognized any private claim in the vicinity of Fort Bridger.

Should any claim have existed in that locality under the treaty of 1848 with Mexico there is no law for their adjustment.

No knowledge of any such claim has ever been presented to this office.

The Territory not being organized at the time of the original military reservation, there was no way by which any other title could have been obtained.

Mr. B.'s letter herewith returned.

Very respectfully, your obedient servant,

WILLIS DRUMMOND,
Commissioner.

Adjutant-General E. D. TOWNSEND, U. S. Army.

EXHIBIT 4 H.

NEW SANTA FÉ, JACKSON COUNTY, MO.,
January 12, 1878.

SIR: I would most respectfully apply to be informed of the intention of our Government in regard to my property, Fort Bridger, Wyo., which I leased to said Government in the year 1857 for a term of years, a copy of such lease being on file in your Department. I desire to be informed whether our Government wishes to continue possession thereof; and, if so, I should be pleased to have the rent due thereon, and now in arrear, remitted to me as soon as practicable.

I have the honor to be, very respectfully, your most obedient servant,
JAMES BRIDGER.

The SECRETARY OF WAR,
Washington, D. C.

[First indorsement.]

ADJUTANT-GENERAL'S OFFICE,
Washington, January 25, 1878.

Respectfully referred to the Quartermaster-General for such information as the records of his office afford.

E. D. TOWNSEND,
Adjutant-General.

EXHIBIT 4 I.

[Second indorsement.]

QUARTERMASTER-GENERAL'S OFFICE,
Washington, February 8, 1878.

Respectfully returned to the Adjutant-General of the Army, together with such papers connected with the reserve as are on file here.

The lease referred to, made on the 18th November, 1857, between James Bridger and Capt. J. H. Dickerson, assistant quartermaster, after an extended search, has been discovered, and is herewith.

It will be observed that Captain Dickerson in his report of December 21, 1857, remarks that Mr. Bridger bases his claim upon some Mexican or Spanish law, but that it is exceedingly doubtful whether his title is good, and that the contract is so drawn that no payment is to be made until he establishes his title, and that he has leased the property in order to prevent heavy reclamations on the Government for losses or destruction of private property in case his title is good.

It does not appear that he has ever established his title, for a military reservation was duly declared by the President July 14, 1859, embracing an area of 500 square miles, which was reduced February 15, 1872, to 16 square miles.

It will be observed that the Commissioner of the General Land Office, December 14, 1872, advised the Adjutant General that—

“This office has never recognized any private claim in the vicinity of Fort Bridger.

“Should any claim have existed in that locality under the treaty of 1848 with Mexico there is no law for their adjustment.

“The Territory not having been organized at the time of the original military reservation, there was no way by which any other title could have been obtained.”

The return of such of the papers as belong to the files of this office is requested, after having served their purpose.

M. C. MEIGS,
Quartermaster-General, Brevet Major-General, U. S. Army.

[Third indorsement.]

ADJUTANT-GENERAL'S OFFICE,
Washington, February 14, 1878.

Respectfully returned to the Secretary of War, inviting attention to preceding indorsements and accompanying papers, including the lease in question, made November 18, 1857, between James Bridger and Capt. J. H. Dickerson, assistant quartermaster, found in the office of the Quartermaster-General.

E. D. TOWNSEND,
Adjutant-General.

EXHIBIT 4 K.

HOUSE OF REPRESENTATIVES,
Washington, D. C., May 17, 1880.

SIR: A claim of James Bridger, now residing in Jackson County, Mo., for \$10,000, as compensation for the use and occupation, by a portion of the U. S. Army, of Fort Bridger from 1857 to the present time, has been referred to me by the chairman of the Committee (House of Representatives) on Claims for examination and report to the full committee. I inclose an affidavit of E. H. Rippeto as a sample of many which have been filed. Referring to the original contract of lease by the Government with Mr. Bridger (a copy of which I find with the papers), dated November 18, 1857, now on file in your Department, I will be pleased to learn whether the improvements mentioned in the affidavit of Mr. Rippeto were erected by Mr. Bridger at his own expense; whether any compensation has been made to him, and any other facts in the possession of the Department which have a bearing upon the validity of his claim.

Please return with answer the inclosed affidavit.

Very respectfully,

SAM'L. L. SAWYER.

Hon. ALEX. RAMSEY,
Secretary of War.

EXHIBIT 4 L.

[First indorsement.]

ADJUTANT-GENERAL'S OFFICE,
Washington, May 22, 1880.

Respectfully returned to the Secretary of War, with papers from the files of this office relating to the claim of Mr. James Bridger, and inviting attention to War Department letter to him dated February 21, 1878, from which it will be seen that at that time the Department did not recognize his claim to ownership or rent of Fort Bridger.

Nothing appears of record here to show by whom or at whose expense the improvements mentioned in the within affidavit of Mr. Rippeto were erected. The records of the Quartermaster-General's office, where the original lease is filed, may furnish additional information upon this point; also as to whether or not any compensation has ever been made to Mr. Bridger in the matter.

In this connection it is remarked that Fort Bridger, which has not been garrisoned for some time, is to be reoccupied.

R. C. DRUM,
Assistant Adjutant-General.

EXHIBIT 4 M.

[Second indorsement.]

QUARTERMASTER-GENERAL'S OFFICE,
Washington, June 4, 1880.

Respectfully returned to the honorable Secretary of War.

The lease made by Captain Dickerson, on November 18, 1857, was to run for ten years, at \$50 per month, and covered 3,898 acres of land, Mr. Bridger granting the free use of Fort Bridger and all the timber, wood, stone, and whatever might be found above or below the ground within the limits of said tract of land for any purposes for which the officers of the United States Government might wish to appropriate them; payment of rent to commence when his title was established to satisfaction of Quartermaster-General or Attorney-General.

It was further agreed that any buildings that should be erected by the United States on the said tract of land and should remain standing at the expiration of this lease should descend fully to said Bridger.

The money accounts of Captain Dickerson, on file at the Treasury, will show what expenditures, if any, were incurred for sheltering the troops at that time.

It will be observed from my indorsement of February 8, 1878, herewith, that I reported that Mr. Bridger had never established his title, but, on the contrary, that the President declared a military reservation July 14, 1859, and that the General Land Office had never recognized any private claim in the vicinity of Fort Bridger, and

further, that should any claim have existed in that locality under the treaty of 1848 with Mexico, there was no law for their adjustment, etc.

A full description of existing buildings at the post will be found printed on page 217, "Outline description of United States military posts and stations, 1872," and on page 217, Surgeon-General's circular (8) of 1875.

The records show that upon these buildings the Quartermaster's Department has expended during the last sixteen years, for repairs, etc., about \$20,000.

M. C. MEIGS,
Quartermaster-General, Brevet Major-General, U. S. Army.

EXHIBIT 4 N.

WAR DEPARTMENT,
Washington City, June 9, 1880.

SIR: In reply to your letter of the 17th ultimo, requesting information relative to the claim of James Bridger, of Jackson County, Mo., for compensation for alleged use and occupation by United States troops of Fort Bridger, Wyo., since November, 1857, I have the honor to inform you that Mr. Bridger was, February 21, 1878, informed that his failure to establish his title to the property in question, previous to its being embraced in a military reservation, precluded the Secretary of War from recognizing his claim to ownership or rent.

A copy of a report of the Quartermaster-General is herewith inclosed, which embraces all the information in relation to this claim in the possession of this Department and its bureaus.

Very respectfully, your obedient servant,

ALEX. RAMSEY,
Secretary of War.

Hon. SAMUEL L. SAWYER,
Committee on Claims, House of Representatives.

The affidavit of O. H. P. Rippeto is returned herewith, as requested

EXHIBIT 5.

NEAR NEW SANTA FE, JACKSON COUNTY, Mo.,
October 27, 1873.

DEAR GENERAL: With the advice of some of my friends, and having myself every conceivable confidence in your ability and sense of justice, I would most respectfully beg leave to address you with the view of soliciting your valuable influence and assistance in the prosecution of my rightful claim against our Government regarding my property, Fort Bridger, Wyo., begging that you will have the kindness to undertake the prosecution and collection of said claim in the manner you may deem best.

You are probably aware that I am one of the earliest and oldest explorers and trappers of the Great West now alive. Many years prior to the Mexican war, the time Fort Bridger, with adjoining Territories, became the property of the United States, and for ten years thereafter (1857), I was in peaceable possession of my old trading post, Fort Bridger, occupied it as such, and resided thereat, a fact well known to the Government as well as the public in general.

Shortly before the so-called Utah expedition, and before the Government troops under General S. A. Johnston arrived near Salt Lake City, I was robbed, and threatened with death, by the Mormons, by the direction of Brigham Young, of all my merchandise, stock—in fact of everything I possessed, amounting to more than \$100,000 worth—the buildings in the fort partially destroyed by fire, and I barely escaped with my life.

I was with and piloted the army under said General Johnston out there, and since on the approach of winter no convenient shelter for the troops and stock could be found in the vicinity of Salt Lake, I tendered to them my so-called fort (Fort Bridger), with the adjoining shelter, affording rally for winter quarters. My offer being accepted, a written contract was entered into between myself and Captain Dickerson, of the quartermaster department, in behalf of the United States, approved by General S. A. Johnston, and more, so signed by various officers on the general's staff, such as Maj. Fitz-John Porter; Drs. Maddison, Mills, and Bailey; Lieutenant Rich, Colonel Weight, and others, a copy of which is now on file in the War Department at Washington. I also was furnished with a copy thereof, which was unfortunately destroyed during the war.

But the following were the terms agreed upon in said contract:

The Government was to have possession of said fort and grounds for a term of ten years, paying therefor as rent \$600 per annum; and it was also stipulated that should, at the expiration of said ten years, the Government desire to retain or purchase said fort and grounds, it was at liberty to do so by paying me the sum of \$10,000 in gold outside of the yearly rents.

Shortly after the expiration of the term of said lease I applied to the Secretary of War for information in regard to the intention of the Government in regard to my fort, whether they intended to keep or retain it, and also for the rent due me and remaining unpaid. In reply I was informed that whenever I could establish to the satisfaction of the War Department my title to said fort and grounds Department would comply with its contract.

Now, although I was authorized to establish my fort there and settle Salt Lake Valley by the governor of Upper California, I have no proper papers to show therefor. But I would respectfully call your attention to the fact that, had I not leased the premises in good faith to the Government, I would now reside thereon, and would surely by this time have perfected my title thereto under the several acts of Congress since passed, from which I was prevented by the Government keeping me out of possession thereof.

Further, I desire to state that the premises were surveyed and located by John M. Hockaday, a Government surveyor; but as it appears the latter had resigned as such, though I do not know whether his resignation was accepted before or after said survey. A copy of said survey is now on file in the surveyor-general's office in Washington.

It is my belief that I could have then easily obtained a patent for said land had I applied for the same, but owing to the fact that I was all my life out in the mountains, and consequently ignorant what steps were required to be taken to perfect my title to the premises.

I am now getting old and feeble, and am a poor man, and consequently unable to prosecute my claim as it probably should be done. For that reason I respectfully apply to you, with the desire of intrusting the matter into your hands, authorizing you, for me, to use such means as you deem proper for the successful prosecution of this claim. I would further state that I have been strictly loyal during the late rebellion, and during the most of the time in the war in the employment of the Government. Trusting confidently that you will do me the favor of taking the matter in hand or furnish me with your advice in regard to the matter,

I have the honor, general, to be your most obedient servant,

JAMES BRIDGER.

General B. F. BUTLER,
United States Senator.

EXHIBIT 6.

STATE OF MISSOURI, *City of Saint Louis*, ss:

Be it remembered that on this 27th day of April, A. D. 1878, personally appeared before the undersigned, a notary public within and for the city and State aforesaid, who was qualified as such on the 28th day of November, A. D. 1874, and whose commission expires on the 4th day of November, in the year 1878, August Archambault, who is known to me to be the person he represents himself to be, and upon being duly sworn by me says, that he is personally well acquainted with James Bridger, the Western pioneer and trader, and has known him a long time as an honest and upright man; that affiant has been employed by the company of which James Bridger was a partner as a hunter and trapper. Affiant was, in the spring of the year 1843, with said James Bridger at the site of the present Fort Bridger, on Blacks Fork, in Green River Valley, now in Wyoming Territory, when he, the said James Bridger, located his ranch or fort there, and remained there during the whole time it took to build it. Said ranch or fort contained thirteen spacious and substantial log-houses, constructed out of heavy-hewed timber, which had to be hauled from some distance; the roof and floors were made out of sawed boards, which were sawed out with whip-saws; the roofs were also covered with sod to render them fireproof, and the houses were so located as to form a hollow square in the center of said fort, and the whole was surrounded by a stone wall strong and solid; outside of such fort were six other log houses, built in the same manner and of the same material, and were used as stables and other purposes; besides these there were strong corrals or inclosures for the protection and safe-keeping of horses and cattle. All these improvements were, owing to existing circumstances, very costly and expensive.

Affiant further says that Mr. James Bridger resided at said ranch or fort for a

number of years, and done a general trading business with Indians, trappers, and emigrants to Oregon and California; that he claimed the premises as his home and only home, and to affiant's best knowledge and belief had no other home at that time; that the said James Bridger lived there with his family, and it was generally conceded by everybody that he owned said premises, and held them in undisputed possession.

Affiant further says that he is not related to James Bridger, and has no interest in any of his claims whatsoever.

A. J. ARCHAMBAULT.

Sworn and subscribed to before me the year and day first above written. Witness my hand and notarial seal at office.

[SEAL.]

JULIUS CONRAD,
Notary Public.

And I do furthermore certify that I am not related to James Bridger, and have no interest in this claim whatsoever.

JULIUS CONRAD,
Notary Public.

EXHIBIT 7.

STATE OF MISSOURI, *County of Jackson, ss:*

I, William T. Mack Craw, of the county of Jackson, in the State of Missouri, upon oath state that I am well acquainted with James Bridger, lately of Fort Bridger, Wyoming Territory, and now of Jackson County, Missouri; that I know that the said James Bridger resided at said Fort Bridger, with his family as his home for many years; that his said improvements thereon consisted as nearly as I can remember, of thirteen houses, altogether; strong hewed log houses, fortified by a stone wall; laid in cement, 18 feet high and 5 feet thick, encompassing an area of about 4,000 square feet, also a strong corral 200 by 300 feet square, used for stock, inclosed by a stone wall 10 feet high and 2½ or 3 feet thick, with other outhouses, pasture, field, and grounds, costing an outlay of at least \$20,000, considering the price of labor and the remote distance from the civilized world at the time.

I also understand that the said James Bridger had leased said fort and premises in the fall of the year 1857 to our Government, for a term of ten years, at the annual rent of \$600 in gold, and that it was also agreed in said written contract that at the expiration of said term of ten years the Government could, at its option, purchase said fort and premises for the sum of \$10,000, or return the same to its owner, with all improvements thereupon. And I further state that I am not in the least interested in this or any other claim of said James Bridger.

his
WILLIAM T. X MACK CRAW.
mark.

Signed in the presence of—

A. WACHSMAN.
W. W. GRIFFITH.

STATE OF MISSOURI, *County of Jackson:*

Personally appeared before the undersigned, a notary public for and within the State and county aforesaid, who was qualified as such February 24, 1879, and whose commission expires February 24, 1883, William T. Mack Craw, who, being duly sworn, says the foregoing statements are true and correct to the best of his knowledge and belief.

Sworn and subscribed to before me this 20th day of January, 1880.

A. WACHSMAN,
Notary Public.

EXHIBIT 8.

STATE OF MISSOURI, *County of Jackson, ss:*

I, John Kinney, of the county of Jackson, in the State of Missouri, upon oath state that I am well acquainted with James Bridger, formerly of Fort Bridger, in Wyoming Territory, but now residing in this county and State; that I was employed as a teamster in conveying stores to the army of Utah, under the command of General Albert S. Johnston, in the year 1857; that I remained with said army for a number of months at Fort Bridger.

That it was generally known and understood by all connected with said army, and I do believe, that the said James Bridger did rent or lease his property or premises called Fort Bridger to our Government for a term of years and for a stipulated sum, to be paid to him annually.

That there were valuable improvements upon said premises upon our arrival there, made by the said James Bridger, which to the best of my recollection consisted in thirteen houses, constructed out of heavy hewed logs, plank floors, and plank roofs, covered with earth and sod, which were inclosed by a stone wall, laid in cement, about 18 feet high by 5 feet thick, having bastions at each corner, and inclosing about 4,000 square feet of ground.

Also a corral for stock, about 200 by 300 feet square, likewise inclosed by a stone wall, laid in cement, about 10 feet high and 2½ or 3 feet thick, together with six out-houses, also built of heavy hewed logs; pastures and grounds.

In my judgment the above-named improvements on said premises could not at that time be placed there at a cost of less than \$20,000.

I am also convinced that our Government derived great benefit by leasing said premises, since it afforded shelter for the Government stores, to the troops and property, which otherwise would have been destroyed, and caused great suffering, if not destruction, to said army.

And that to the best of my knowledge the said James Bridger has not received any payment on account of said lease or rent of said premises, and that the Government has continued to occupy said premises up to the present date.

And I do furthermore state that I am not interested whatsoever in the claim of said James Bridger.

JOHN KINEY.

STATE OF MISSOURI, *County of Jackson, ss:*

Personally appeared before the undersigned, a notary public within and for the State and county aforesaid, who was qualified as such February 24, 1879, and whose commission expires February 24, 1883, John Kinney, who is personally known to me, and who, being duly sworn, upon his oath says that the foregoing statement is correct and true, to the best of his knowledge and belief.

Sworn and subscribed to before me this 21st day of January, 1880.

[SEAL.]

A. WACHSMAN,
Notary Public.

EXHIBIT 9.

STATE OF MISSOURI, *County of Jackson, ss:*

I, O. H. P. Rippeto, of the county of Jackson, in the State of Missouri, upon oath state that I am well acquainted with James Bridger, formerly of Fort Bridger, now in Wyoming Territory, but who now resides in the county of Jackson, in the State of Missouri; that I accompanied the so-called army of Utah, commanded by Albert S. Johnston, in the year 1857, as a wagon-master in the employ of John M. Wells, conveying Government stores for said army, and remained with said army at Fort Bridger for some time; that I always understood and believed that the said James Bridger had leased or rented his property called Fort Bridger to our Government for a term of years, and for a stipulated sum of money, to be paid to him annually; that on our arrival at Fort Bridger we found quite valuable improvements on said premises, which consisted, as nearly as I can remember, in thirteen houses, built of heavy hewed logs, floored with sawed planks, and covered with sawed planks and sod, which were inclosed by a stone wall laid in cement about 18 feet high and 5 feet thick, with bastions at each corner inclosing about 4,000 square feet of ground. Also a strong corral for stock, about 200 by 300 feet square, inclosed in a like manner by a stone wall laid in cement and about 10 feet high and 2½ or 3 feet thick, together with six other out-houses, pastures, and grounds.

In my estimation the whole improvements on said premises, considering the price of labor and the remote distance from the States, could not be placed there at a cost of less than \$20,000.

I also state that I do believe that the Government was greatly benefited by leasing or renting said premises from James Bridger, by rendering shelter against the inclemency of the weather in that severe winter for the Government stores, the troops, and animals of said army, which otherwise would have certainly suffered severely.

And that to the best of my knowledge said James Bridger has not received any payment or recompensation on account of said lease or rent, and that the Government has continued to occupy said premises to the present day.

And I do furthermore state that I have no interest whatsoever in this or any other claim of the said James Bridger.

O. H. P. RIPPETO.

STATE OF MISSOURI, *County of Jackson*, ss:

Personally appeared before the undersigned, a notary public for and within the State and county aforesaid, who was qualified as such February the 24th, 1879, and whose commission expires February 24, 1883, O. H. P. Rippeto, who is personally known to me, and who, being duly sworn, upon his oath says that the foregoing statement is correct and true to the best of his knowledge and belief.

Sworn and subscribed to before me this 21st day of January, 1880.

[SEAL.]

A. WACHSMAN,
Notary Public.

EXHIBIT 10.

INDIAN TERRITORY, *Choctaw Nation*, ss:

I, Henry T. Chiles, of the Chickasaw Nation in Indian Territory, upon oath state: That I am well acquainted with James Bridger, formerly of Fort Bridger, in Wyoming Territory, but now residing in Jackson County, Mo.; that I was at Fort Bridger in about the year 1857, carrying stores to said fort; that I always understood, and do believe, that the said James Bridger did rent or lease for a term of years his premises, called Fort Bridger, to the Government of the United States; that there were valuable improvements at said Fort Bridger, consisting, as nearly as I can remember, of a number of heavy log houses, fortified by a stone wall about 18 feet high and having bastions on each corner, said wall encompassing a space of about 4,000 square feet. There was also a corral for stock inclosed by a stone wall about 10 feet high, and about 300 by 200 feet long, besides several log houses outside the fort itself.

The whole improvements, owing to the remoteness from civilization and high price of labor out there at that time, could not have been placed there for a sum of less than \$20,000.

That to the best of my knowledge he (Mr. Bridger) has not received payment for any part thereof, and that the Government has continued to occupy his premises to the present time. I do also state that I am not in anywise concerned or benefited by this or any other claim of the said James Bridger.

H. T. CHILES.

INDIAN TERRITORY, *Choctaw Nation*, ss:

Henry T. Chiles personally appeared before the undersigned, a United States commissioner for and within the county and Territory aforesaid, who is personally known to me, and who, being duly sworn, upon his oath says that the foregoing statement is correct and true to the best of his knowledge and belief.

Sworn and subscribed to before me this 30th day of March, A. D. 1880.

[SEAL.]

ISAREL W. STONE,
United States Commissioner.

[S. 380, Forty-eighth Congress, first session. Report No. 21.]

EXHIBIT 11.

A BILL for the relief of James Bridger.

Be it enacted by the Senate and House Representatives of the United States of America in Congress assembled, That James Bridger be, and he is hereby, authorized to commence his suit in the Court of Claims against the United States, at any time within one year after the passage of this act, for the value of the improvements by him erected and constructed at Fort Bridger, situated in Green River County, in the Territory of Utah, and appropriated by the United States to its own use; and the Court of Claims shall have jurisdiction to hear and determine the said claim free from the bar of the statute of limitations; and said claimant and the United States shall have the right to use as evidence before said court any papers or documents in the War Department in relation to said claim, and any other competent testimony relative to the claim; and said court shall render judgment in favor of said claimant for the value of said improvements as found by said court.

H. Rep. 468—2

EXHIBIT 12.*

[Senate Report No. 21, Forty-eighth Congress, first session.]

A bill identical with this was favorably reported from the Committee on Claims of the House of Representatives June 12, 1880. A similar bill was favorably reported from this committee July 6, 1882.

The evidence in this case clearly establishes the following facts: About the year 1843 claimant located upon a tract of land situated in Green River County, now Utah Territory, and commenced the erection of a trading house and other buildings and improvements. From the date of said location said claimant resided at said post, and engaged in trade with the surrounding tribes of Indians, until in the fall of 1857, at which last mentioned date the improvements constructed by said claimant at said trading post consisted of thirteen spacious and substantial log-houses constructed out of hewed timbers; the roofs and floors were of sawed boards, which were sawed out with whipsaws; the roofs were also covered with sod to render them fire-proof. The houses were so located as to form a hollow square in the center of an area of about 4,000 square feet, all of which was surrounded with a strong, solid stone wall, laid in cement, about 18 feet high and 5 feet thick, with bastions at each corner. Outside of said wall was a strong corral for stock, about 200 by 300 feet square, inclosed in like manner by a stone wall laid in cement, about 10 feet high and 2½ or 3 feet thick, together with six other outhouses. The testimony shows that these improvements were erected by said claimant, and were used by him as his residence and as a trading post, and were called and known as Fort Bridger. In the year 1857 the Army of Utah, commanded by General Albert S. Johnston, took possession of said premises on behalf of the United States, under a written contract of lease executed by claimant, of the one part, and Capt. John H. Dickerson, assistant quartermaster, United States Army, on behalf of the United States, of the other part.

The material portions of said written contract, so far as the claim of said Bridger is concerned, are as follows:

Said claimant leased to the United States for the term of ten years from the 18th day of November, 1857, a tract of land consisting of 3,898 acres and 2 roods, situated in Green River County, Utah Territory, and particularly described in a plot attached to said written contract and made a part thereof, upon which tract of land is situated Fort Bridger. By the terms of said contract the United States agreed to pay to claimant an annual rent for the use of said premises of \$600, the rent to commence as soon as claimant established his title to said tract of land to the satisfaction of the Quartermaster-General of the United States, or whenever the Attorney-General of the United States should pronounce the title good. It was further agreed by the contracting parties that the United States Government, through its agent, should have the privilege at any time within the period of said lease of purchasing said tract of land by paying claimant the sum of \$10,000. It is also provided by the terms of said contract that said lease might be terminated by the United States upon three months' notice by the Quartermaster-General of the United States Army, or by his agent, to claimant.

The United States have continued to occupy said premises from the day of the date of said lease to the present time, and are now enlarging it with a view to its permanent occupancy. The claimant has never established his title to the premises, but on July 14, 1859, less than two years after the date of said contract, the President declared it a military reservation, and that the General Land Office had never recognized any private claim in the vicinity of Fort Bridger; and, further, should any claims have existed in that locality, under the treaty of 1848 with Mexico, that no law existed for their adjustment. The testimony further shows that the cost of said improvements to said claimants was about the sum of \$20,000.

Claimant believing himself entitled to be paid for the use and occupation of Fort Bridger and the buildings connected therewith, and for the value of said improvements, made application to the War Department therefor, and was informed by a communication from the Secretary of War, dated February 21, 1878, that his failure to establish his title to the property in question previous to its being declared a military reservation precluded the Secretary of War from recognizing his claim to ownership or rent.

It may be, and really appears to be, a hardship upon claimant that he should be entirely deprived of the improvements erected by him, and of compensation for their use by the United States for a period of more than twenty years; yet the terms of said written contract clearly preclude him from a recovery according to the forms of law. The evidence upon which this report is founded consists of numerous affidavits and communications from the War Department, together with a certified copy of the written contract.

* Exhibit 13 is a similar bill.

Your committee believe that the ends of justice will be promoted by permitting the claimant to assert his claim in a court of justice, where witnesses can be subjected to cross-examination and the proper tests applied for the ascertainment of a just and equitable determination.

Your committee therefore recommend that the accompanying bill, as amended, be passed, permitting claimant to sue in the Court of Claims for the amount he believes himself entitled to, free from the bar of the statutes of limitations, and that his case be heard by said court and judgment be given by the court in favor of claimant for the value of said improvements as found by the court.

EXHIBIT 14.

STATE OF MISSOURI, *County of Jackson:*

Personally appeared before me, George T. Purcell, a justice of the peace in and for the county and State aforesaid, Joseph T. S. Wright, a person well known to me to be respectable and entitled to full credit and belief, and after being duly sworn testifies as follows: My name is Joseph T. S. Wright; my age is fifty-three years; my post-office address is Oak Grove, Jackson County, Mo. In the year 1857 I was a soldier with Col. A. S. Johnston. We started for Utah in the month of August, 1857. I belonged to a battalion, four companies, commanded by Col. Barnett E. Bee. We started from Fort Leavenworth. We were overtaken by Colonel Johnston about 100 miles east of the South Pass; we then all marched together; we arrived at Fort Bridger in November of the same year. The winter was so severe that when we got to Fort Bridger that Colonel Johnston concluded to remain there during the winter; we remained there until the next June, 1858. While we were there I understood from the officers of the command, as well as Captain Bridger, that the officers, Colonel Johnston and others, had leased the fort for ten years at \$600 per annum, and that the officers agreed to pay Captain Bridger \$10,000 for the fort and his improvements, if he could make a good title for the same. The improvements consisted, as nearly as I recollect, of some thirteen log houses, strong, and hewed of heavy logs, fortified by a stone wall laid in cement, 18 feet high and 5 feet thick, inclosing an area of about 4,000 square feet; also a strong corral 200 by 300 feet square, used for stock, inclosed by a stone wall, also laid in cement, 10 feet high and 2½ feet thick, with other outhouses, all costing at least an outlay of \$20,000, considering the price of labor and the remote distance from the civilized world at the time it was built. I was well acquainted with Capt. James Bridger; he died in this county about six or seven years ago. I further state that I have no interest in the prosecution of this claim.

JOS. T. S. WRIGHT.

Subscribed and sworn to before me this the 17th day of May, 1886.

GEO. T. PURCELL,
Justice of the Peace, Blue Top, Jackson County, Mo.

STATE OF MISSOURI, *County of Jackson, ss:*

I, M. S. Burr, clerk of the county court of the county and State aforesaid, the same being a court of record, and having a seal, do hereby certify that George T. Purcell, esq., before whom the annexed instrument was proven or acknowledged, was at the date thereof a justice of the peace in and for said county, duly commissioned, qualified, and authorized to take acknowledgments and administer oaths, and I verily believe the signature thereto to be genuine. I further certify that the said instrument is duly executed according to the laws of the State of Missouri.

In testimony whereof I have hereunto set my hand and affixed the seal of said court at Independence the 17th day of May, 1886.

[SEAL.]

M. S. BURR,
Clerk.

EXHIBIT 15.

STATE OF MISSOURI, *County of Jackson:*

Personally appeared before L. F. McCoy, clerk of the circuit court, Joseph C. Irwin, well known to me to be respectable and entitled to full credit and belief, and after being duly sworn, testifies as follows:

My name is Joseph C. Irwin; my age is seventy years; I reside at Kansas City, Mo.; my post-office is Kansas City., Jackson County, Mo.; I have resided in this

county for sixty years. I was a freighter across the plains for many years; I was the senior partner of the firm of Irwin, Jackman & Co., for transporting Government supplies to Utah and Mexico and other points west during the late war and a private freighter for many years prior to that time. I was well acquainted with James Bridger, the founder and builder of Fort Bridger, on the road to Salt Lake, in the Territory of Wyoming, and was with Col. A. S. Johnston's command in 1857, when his army reached the fort above mentioned and where he went into winter quarters; Mr. Bridger was with the command, employed as a guide. After Col. Johnston went into winter quarters he leased the fort and all the buildings, consisting of a number of strong houses built of hewn timbers, substantially built, which was inclosed and fortified by a strong stone wall of great height and thickness, with bastion at each corner, and was so built to protect the owner from the attacks of the Indians. There was also a corral for stock, similarly inclosed with a stone wall; besides there were several buildings and outhouses of same construction as those inside the fort, which were occupied in former years by trappers and traders and other families, with splendid grazing grounds, with finest water and timber, and, considering the time and the great distance from any settlement when they were built, they must have cost many thousand dollars. I am well acquainted with the values of ranch property, and know that such property would then and now be worth \$25,000 or \$30,000. But I have no knowledge of what Colonel Johnston was to pay for the use of said property, or how long he rented it for. I have no interest, direct or indirect, in the prosecution of this claim.

JOSEPH C. IRWIN.

Subscribed and sworn to before me this 12th day of July, A. D. 1887.

L. F. MCCOY,
Clerk of the Circuit Court of Jackson County, Mo.

EXHIBIT 16.

[S. 480, Fiftieth Congress, first session.]

A BILL for the relief of James Bridger or his legal representatives.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That James Bridger, or his legal representatives, be, and he is hereby, authorized to commence a suit in the Court of Claims against the United States for the value of the improvements by him erected and constructed at Fort Bridger (and the rent of said premises by the United States Army), situated in Green River County, in the Territory of Utah, and appropriated by the United States to its own use; and the Court of Claims shall have jurisdiction to hear and determine the said claim free from the statute of limitations, and to adjudicate the same upon the basis of justice and equity, and render judgment thereon; and said claimant and the United States shall have the right to use as evidence before said court any papers or documents in the War Department in relation to said claim, and any other competent testimony relative to the claim; and said court shall render judgment in favor of said claimant for the value of said improvements as found by said court, and from any judgment that may be rendered in said cause either party thereto may appeal to the Supreme Court of the United States: *Provided*, That such appeal shall be taken within sixty days from the rendition of said judgment.

EXHIBIT 17.

The claim of James Bridger (S. 480, Fiftieth Congress) has been pending in Congress many years, and there were some ten or twelve affidavits on file in the case, which were referred by the Committee on Claims in the House, Forty-eighth Congress, to Hon. Thomas F. Ochiltree for examination and report, when he lost all of said affidavits with other papers, and the same can not now be found anywhere. That said affidavits set forth in substance as in said Senate Report No. 21, Forty-eighth Congress, first session, the following facts to wit: That James Bridger located in Green River country, Utah Territory, in 1843 (where Fort Bridger now stands), and commenced and finished Fort Bridger, "which consisted of thirteen spacious and substantial log houses constructed out of hewed timber." "The houses were so located as to form a hollow square in the center of an area 4,000 square feet, all surrounded with a solid

stone wall, laid in cement 18 feet high and 5 feet thick, with bastions at each corner. Outside of said wall was a strong corral for stock, about 200 by 300 feet square, inclosed in like manner by a stone wall laid in cement, about 10 feet high and 2½ or 3 feet thick, together with six other outhouses." These last affidavits showed that "these improvements were called and known as Fort Bridger. In the year 1857 the army of Utah, commanded by General Albert S. Johnston, took possession of said premises on behalf of the United States under a written contract of lease executed by claimant of the one part and Capt. John H. Dickerson, assistant quartermaster, U. S. Army, on behalf of the United States, of the other part."

This lease was for ten years from 18th of November, 1857, to include a tract of land, 3,898 acres, upon which Fort Bridger was situated.

In this instrument the Government was to pay claimant an annual rental of \$600. It was agreed also that during the period of said lease the United States had the privilege of purchasing said land for \$10,000, as soon as title was established or acquired by claimant, which latter was prevented by the President declaring it a military reservation, July 14, 1859. That he was further prevented from completing his title because of the loss of his agreement with the governor of Chihuahua, Mexico, who agreed to grant to him near 5,000 acres of land in Green River country (including the land where Fort Bridger now stands), in consideration of his planting his colony at said point. The establishment of a military reservation over said lands defeated any rights he might have under the treaty of 1848 with Mexico.

The evidence further shows that these improvements cost claimant about \$20,000, and from the statement of the Commissioner of the General Land Office could not acquire title because there was no way to do so at that date; the Territorial organization was not then effected and no facilities existed for the survey of this land, and hence no possible way for claimant to perfect his title for the various reasons above enumerated.

CHAS. M. CARTER,

Attorney for claimant, room 65, Corcoran Building, City.

EXHIBIT 18.

IN THE MATTER OF THE CLAIM OF JAMES BRIDGER.

Honorable COMMITTEE ON CLAIMS,
United States Senate:

Under the auspices of the governor of Chihuahua, in 1843, before the Mexican war, Capt. James Bridger was induced under a promise by the Government of a large grant of land to establish a colony in Green River country, Utah, then Mexican territory, which he did at great expense, and erected Fort Bridger for protection against Indians, at a cost of over \$20,000.

Under the Spanish rule he was to plant said colony and retain possession of the country for a term of years before he was to receive the title to that grant.

The Mexican war entirely changed his plans, as under the treaty of 2d February, 1848, his possessions became a part of the United States territory. He then felt easy, as he was protected in all his possessory rights by treaty, and as it was generally understood that the protective policy of the United States (which protected the persons and property of the Spanish and French subjects in the acquisition of Florida and Louisiana) would be also extended over all who came under our flag from Mexico. In this belief he rested contented, as he believed himself under the most liberal and just Government on earth. By treaty he became an American citizen without doing a thing on his part. Continuing on in possession of his property, the possession was guaranteed to him by said treaty, until, shortly after peace was declared, the Mormon troubles broke out, when his relations were again disturbed by the U. S. Army quartering in his fort in 1857.

Being an illiterate man (as will be seen from making his mark to the lease), these intelligent army officers ingeniously worded the lease of his property to suit alone the interests of the Government, and got possession of a property in which he had put his earnings of a lifetime—his all on earth. Two years after this possession by the Army, the President, in violation of the sacred treaty stipulations, as will be seen hereafter, declared it a military reservation, thus defeating all efforts to complete his title, commenced under the Spanish laws and to be completed under ours.

This ruined him completely; it was his financial death-blow, from which he never afterward recovered. He died disheartened, leaving a destitute family, at the lack of good faith on the part of the United States Government.

The fact that the Government officers leased this property in question at \$600 per year, and were to pay \$10,000 for it if they purchased, shows that it was regarded as very valuable and of great use to the Army. The strong and well-built stone wall,

well laid in cement, was 18 feet high and 5 feet thick around an area of 100 feet square, and was pronounced the strongest fort of the kind in the West. The transportation of the cement, some thousands of miles over a wild country, with which to construct that cemented stone structure, cost alone several thousand dollars. The construction of this fort—the wall alone—in the wilderness, where material was so costly and so inaccessible, would be reasonably worth, from builders' estimates, \$18,000.

As a former citizen of Mexico he is entitled to have his rights respected and protected by treaty of 2d February, 1848. This treaty, among other things, declares (Art. VIII) that "property of every kind now belonging to Mexicans not established there (in United States) shall be inviolably respected. The present owners, the heirs of those, and all Mexicans who may hereafter acquire said property by contract shall enjoy with it guaranty equally ample as if the same belonged to citizens of the United States." Article IX declares that the Mexicans who * * * shall be incorporated into the Union of the United States" shall "be admitted * * * to the enjoyment of all the rights of citizens of the United States according to the principles of the Constitution, and in the meantime shall be maintained and protected in the free enjoyment of their liberty and property."

It was further stipulated that "all persons whose occupations are for the common subsistence and benefit of mankind shall be allowed to continue their respective employments, * * * nor shall their houses or goods be burned or otherwise destroyed, nor their cattle taken, nor their fields wasted; * * * but if the necessity arises to take anything from them for the use of such armed force, the same shall be paid for at an equitable price." And that these treaty stipulations (Article XXII) "are to be as sacredly observed as the most acknowledged obligations under the laws of nature or of nations."

We ask, for the protection of the sacred rights of this Mexican subject, that the provisions of this treaty "be sacredly observed."

Under the laws of Mexico, and under its sanction and protection, he erected this fort and planted this colony, and had Mexico retained possession of the country his agreement with that Republic would have been carried out, and he to-day would be possessed of 3,898 acres of land. But by treaty he was made a citizen of the United States, and it is expected that the provisions of the treaty will be carried out if claimant so desires it.

"According to the modern law of war, the conquering state acquires the sovereign and absolute power over the conquered state, but it can not, in anywise, dispose of the private rights of the conquered subjects." (Lawrence's Wheaton Int. Law, 683, note 207.)

Grotius says that "by the consenting testimony of all ages and nations, good faith ought to be observed towards the enemy."

Bynkershoek holds that every other sort of fraud may be practiced toward him, but he "prohibits perfidy." "I allow of any kind of deceit," said he, "perfidy alone excepted; not because anything is unlawful against an enemy, but because when our faith has been plighted to him so far as the promise extends he ceases to be an enemy." (Wheaton's Int. Law, 685, and other authorities.)

The faith of this Government is pledged to protect this conquered subject in all of his rights. All law writers are overwhelmingly in support of this treaty obligation.

"The Constitution declares a treaty to be the law of the land." (Marshall, C. J., 2 Peters, 314.)

In conclusion, under the sacred provisions of that treaty this Government is not only pledged, but bound, to restore to James Bridger and his heirs whatever possessory rights he had under the Spanish laws, to wit: A patent to that 3,898 acres of land where Fort Bridger now stands, which was taken from him in violation of all treaty provisions, the highest law we have. To fail to do so, according to the highest law writer on international law, the nation would be guilty of "perfidy." This land was to have been granted to him by Mexico, and under the provisions of the treaty this Government is bound to issue a patent to this grant or pay the value thereof. (Art. IX.) There can be no other construction.

But claimant is moderate in his demands, and only asks to have the privilege of suing in the courts for perhaps one-tenth of his legitimate rights under that treaty.

Respectfully submitted.

C. M. CARTER,
Attorney for Claimant.

NOTE.—Hon. T. P. Ochiltree, to whom this case was referred last session, lost all the papers therein and can not now be found. Upon these proofs three favorable reports were made and the bill passed the House twice and Senate once, but not the same session. If not enough evidence before the committee upon which to base a favorable report, please do not report until we have time to file other evidence, which may be difficult to obtain.

EXHIBIT 19.

STATE OF MISSOURI, *County of Jackson, ss:*

Daniel M. Ross, being duly sworn, says that he was well acquainted with James Bridger at his fort bearing his (Bridger's) name in 1857, when the Utah army took possession of said fort; that the said Fort Bridger consisted of thirteen log houses built and located so as to form a hollow square in the center of an area of about 4,000 feet square, all of which was surrounded with a strong, solid, stone wall, laid in cement, about 18 feet high and 5 feet thick, with bastions at each corner. Outside said wall was a strong corral for stock about 200 by 300 feet square, and inclosed in like manner by a strong stone wall, laid in cement, about 10 feet high and about 2½ or 3 feet thick. There were also other outhouses.

Some of the houses were destroyed by the Mormons, but the walls were in good condition when the said army took possession of them.

The cement used in said walls was very expensive in that remote Territory, as it had to be transported an enormous distance, and likewise the large quantity of stone. Skilled labor commanded high wages, and said walls must have cost, and were worth when taken by the said army, at least \$30,000.

DANIEL M. ROSS.

Witness to signature:

JAMES H. O'BRIEN.

STATE OF MISSOURI, *County of Jackson, ss:*

On December 7, 1888, personally appeared before me, Henry P. Scott, a notary public in and for the said county and State, Daniel M. Ross, who subscribed his name and made oath to the foregoing statement; and I further certify that said Daniel M. Ross is a worthy citizen and is entitled to credit. Witness my hand and notarial seal.

[SEAL.]

HENRY P. SCOTT,
Notary Public.

My commission expires July 9, 1892.

EXHIBIT 20.

WASHINGTON, D. C., *January 12, 1889.*

SIR: In answer to yours of the 11th instant I have to say that it is impossible for me to obtain more definite evidence than that on file relative to the cost of construction of Fort Bridger and its value at the time the U. S. Army took possession in 1857, for the reason that since this claim has been pending before Congress Capt. James Bridger and nearly all of his witnesses have died.

I remain yours, respectfully,

C. M. CARTER.

General B. C. CARD,

Deputy Quartermaster-General, U. S. Army.

This report was transmitted to the president *pro tempore* of the United States Senate by William C. Endicott, Secretary of War, on January 24, 1889, accompanied by the following communication:

WAR DEPARTMENT,
Washington City, January 24, 1889.

SIR: I have the honor to acknowledge the receipt of Senate resolution of September 14, 1888, directing an investigation of the claim of James Bridger for value of improvements said to have been constructed by him at Fort Bridger, and for rent of property for use of troops in 1857.

In reply I beg to invite attention to the inclosed report, of the 16th instant, and accompanying papers, from the Quartermaster-General, showing the result of his investigation of the above-mentioned claim. I concur in his recommendation that an allowance of \$6,000 be made for the improvements, but that no sum be allowed for rental of the land, because the claimant did not own or have any title to the land, and because rent was promised only when his title to it was established.

All the evidence and papers in the case are transmitted herewith.

Very respectfully,

WILLIAM C. ENDICOTT,
Secretary of War.

The PRESIDENT *pro tempore* UNITED STATES SENATE.

In view of the foregoing your committee recommend the payment of said sum of \$6,000, as stated in the bill.

E. R. SHIPLEY.

FEBRUARY 20, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DOWNING, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 608.]

The Committee on Claims, to whom was referred the bill (H. R. 608) for the relief of E. R. Shipley, having had the same under consideration, beg leave to report the same with the recommendation that it pass.

The Senate report No. 269, Fifty-third Congress, second session, on this bill fully sets forth the facts, and your committee adopt the same and make it a part of this report.

[Senate Report No. 269, Fifty-third Congress, second session.]

The Committee on Post-Offices and Post-Roads have considered Senate bill No. 199 and report as follows:

The bill is for the relief of E. R. Shipley, who was postmaster at Springfield, Mo., in June, 1884. On the 23d of June two bundles of registered matter were lost, as it was claimed, in the Springfield office. One of his clerks was charged with stealing the packages and was brought before the U. S. commissioner and, after hearing, discharged. There is nothing to show any guilt or negligence on the part of the postmaster and no suspicion attaches to him, and in the judgment of the committee he is entitled to the relief he asks.

The committee refer to report 113, Fifty-second Congress, first session, made by Mr. Sawyer, chairman of the Committee on Post-Offices and Post-Roads, where all the facts connected with the matter are stated, and the same is made a part of this report, and recommend the passage of the bill.

[Senate Report No. 113, Fifty-second Congress, first session.]

The Committee on Post-Offices and Post-Roads, to whom was referred the bill (S. 9) for the relief of E. R. Shipley, have examined the same and report:

This bill appropriates \$460 to reimburse E. R. Shipley, postmaster of Springfield, Mo., for moneys paid by him to parties whose money in registered packages was stolen. The circumstances are fully detailed in the report made by the House Committee on the Post-Office and Post-Roads, Forty-ninth Congress, first session, which is adopted, and is as follows:

“E. R. Shipley was postmaster of Springfield, Mo., in June, 1884, and for seven years previous to that time. His commission expired October 27, 1885, his successor taking charge of the office January 1, 1886. That during the discharge of the duties of the office of postmaster Mr. Shipley gave close personal attention to all the details and duties of the office. He was careful to select sober, industrious, and competent clerks therein, who observed the rules and regulations governing such offices. That on the 23d day of June, 1884, the postal clerk between Kansas City and Springfield, Mo., claimed to have thrown into his pouch for the Springfield office two bundles of registered matter. That when this pouch reached the Springfield office, on the

evening of said day, it was opened by one of the sworn clerks in the office and its contents taken out in the usual and customary way. That one William A. Hoover, a clerk in the office, took charge of the registered matter; said Hoover, on his examination, under charge of stealing said parcel, swore before the United States commissioner that he placed said registered matter in the safe, locking said safe, about 8.45 p. m. on said 23d day of June; that no other person handled the registered matter except said Hoover; that no outsiders were permitted to or did enter the room during this time; that said Hoover, after a full examination, was discharged. At 9.15 p. m. of said date Mr. Shipley, the postmaster, unlocked the safe and took out the registers to ascertain if they were in proper shape for dispatch. He then found all the registered matter coming from one train intact, but one bundle of registered matter claimed by the postal clerk on the Kansas City and Springfield road to have been delivered to the office could not be found.

"Mr. Shipley at once entered into a rigid investigation to ascertain by whom said registered package had been taken from the office, if by anyone, but was unable to discover by whom, if by anyone, said package was taken. The package of registers contained thirty packages, consisting of money orders, money, etc., to the amount of \$450. But thereafter, on the 2d day of July, 1884, the inspector claimed that another package, containing \$10, was lost in said office. Mr. Shipley, upon the demand of the post-office inspector, Gen. Warren P. Edgerton, paid to said inspector the amount of said losses, being in all \$460, believing that it was his duty to pay the loss, although he never saw one of the lost parcels and was guilty of no negligence whatever in connection with their loss. Thereafter he made application to the Post-Office Department for reimbursement for the amount so paid; but it was not repaid him by the Department, for the reason that under the facts in this case neither the postmaster at Springfield nor this Government was liable for this loss.

"The committee is of the opinion that the postmaster, in such a case, being guilty of no negligence in the premises, should not have been required to pay said sum of \$460, and that the sum should, in justice and equity, be refunded to him.

"The sworn statements of Mr. Shipley, as well as letters of J. J. Hanna, Gen. Warren P. Edgerton, post-office inspector, and Edwin E. Bryant, Assistant Attorney-General of the Post-Office Department, dated the first two May 9, 1885, and the latter January 28, 1886, and also a statement from McLain Jones, U. S. commissioner, are hereinafter set out in the appendix to this report."

APPENDIX.

Sworn statement of E. R. Shipley, late postmaster.

I, E. R. Shipley, late postmaster at Springfield, Mo., being duly sworn, depose and say that I was postmaster at Springfield, Mo., in June, 1884, and for seven years previous to that time; that my commission expired October 27, 1885, and that my successor took charge of the office January 1, 1886; that in all these eight years I gave close personal attention to all the details and business of the office, performing clerical as well as supervisory work; that my office was in that time inspected or examined by Inspectors Boyd, Baird, Anderson, and Thomas, and that their reports, I verily believe, were creditable to my administration of the office, showing that proper care and *protection* were given to all matter intrusted to the post-office; that on the 23d of June, 1884, there were employed in the office, as sworn clerks, F. G. Cowan, W. A. Hoover, S. H. Randolph, and F. S. Routt; that on the 23d day of June, 1884, the postal clerk between Kansas City and Springfield, Mo., claimed to have thrown into his pouch for the Springfield office two bundles of registered matter; that when this pouch reached the Springfield office it was opened by F. G. Cowan, a sworn clerk, and its registered contents, with other matter, thrown or emptied onto a mailing table, as was the usual custom, and that William M. Hoover, a sworn clerk in the office, gathered up the registered matter and carried it into the postmaster's room, laying it on the table, where the record is taken of such matter; that the said Hoover swore before the commissioner that he (Hoover) also took the registered matter from this table and locked it in the safe; that during the time it lay on the postmaster's table no other person handled the registered matter except Mr. Hoover, who only placed it there and removed it therefrom to the safe; that no one entered the room from the time the registers were laid on the table until they were locked in the safe; that from the time the registers were received until after they were locked in the safe there were present in the post-office, all the time, Messrs. Cowan, Hoover, and Randolph, and a part of the time the postmaster; that at about 8.45 p. m. the registers were locked in the safe (according to sworn statement of Hoover), and that at 9.15 the postmaster came to the office, unlocked the safe, and took out the registers to ascertain if they were in proper shape for dispatch; that he found all the registered matter coming from one train *intact*; that only one bundle of the registers

claimed by postal clerk on Kansas City and Springfield Railroad to have been thrown to the office could be found, and that I (the postmaster) at once sent for Mr. Hoover. (the clerk handling the registers), who could give no information as to whether there were more registers put in the safe than I found or not.

Mr. Simpson, the postal clerk, was at once sent for, and he declared that there were two bundles, one of which contained thirty registered packages. The latter could not be found. Hoover swore before the commissioner that he put on the table all he received from the pouch; that he put in the safe all he took from the table, and that he took from the table all that he put there. At no time were all the clerks in the office more than 10 feet away from the table while the registers lay thereon, nor were there any person other than Hoover in the room where the registers were. The room described is simply a corner of the post-office partitioned off for a postmaster's room, and the door leading thereto is through the office proper and past the employees, so that no one could enter without being seen by employees. I further declare under oath that the manner of handling registered matter is, in my judgment, safe and that I do not believe anyone entered the office and took the registers therefrom. Further, I declare under oath that my belief has always been that Mr. Simpson, the postal clerk, was in error in claiming that the lost matter was put in the pouch which came into this office. No clerk ever positively saw the lost matter, although after Mr. Simpson positively and emphatically declared there were two bundles, then one of the clerks thought there were two bundles. But to offset this Mr. Hoover positively swore that all the registers from the pouch were put on the table, and afterwards, so far as he could see, the entire lot were locked in the safe.

I further declare under oath, that it was my belief that it was my duty to pay the loss, although I never saw one of the lost parcels. That I wrote to chief inspector that I hoped he would give me a little time to make good the loss, and that he, from time to time, sent me statement of the losses.

I further swear that I sent to General Edgerton, inspector, St. Louis, Mo., August 26, 1884, \$100; September 13, 1884, \$350; total, \$450, to pay the losses above referred to. Also July 2, 1884, \$10, to pay for another letter claimed to have been lost in this office, the theory of the inspectors being that as Hoover stole the thirty packages, he, having a chance, stole the other; and the case was thus closed by inspectors on this hypothesis. I further swear that it is my belief that not one of these letters was stolen in this office, and that I was not legally or honorably bound to pay the same, but did so on application of the inspectors, recognizing them as superior in authority. I further swear that the receipts of General Edgerton for the above \$460 were sent to Hon. William H. Wade, M. C., and that I honestly believe the Government should reimburse me for the same, as suggested by the inspectors who investigated the loss.

I also swear that I have concealed no facts regarding this claim, and stand ready to furnish any additional evidence required.

E. R. SHIPLEY, *Late Postmaster.*

SPRINGFIELD, MO., *February 3, 1886.*

Subscribed and sworn to before me this 3d day of February, 1886.

[SEAL.]

McLAIN JONES, *United States Commissioner.*

POST-OFFICE DEPARTMENT, OFFICE OF POST-OFFICE INSPECTOR,
St. Louis, Mo., May 9, 1885.

DEAR SIR: Upon the request of E. R. Shipley, postmaster at Springfield, Mo., asking for a statement regarding the loss of thirty registers taken from his office in the latter part of June, 1884, I beg leave to submit the following:

I made a full and thorough examination of said loss, and as the result of my investigation arrested one William E. Hoover, a clerk in said office. Hoover was discharged by U. S. Commissioner Jones upon a preliminary hearing. Prior to my entering upon this investigation Inspector Schourte had fully investigated the case, and reported that Hoover was the guilty party. Notwithstanding the fact that Hoover was discharged by the U. S. commissioner, I am still fully satisfied that Hoover was one of the parties guilty of the robbery.

I am also well satisfied that E. R. Shipley, postmaster, was in no way responsible for the loss, as no carelessness or negligence was shown upon his part in the investigation.

Mr. Shipley was called upon to make good the loss resulting from said robbery, and has paid the same in full. In my judgment he should be reimbursed for the amount thus paid.

Very respectfully,

J. J. HANNA.

Gen. WARREN P. EDGARTON,
Inspector in Charge, St. Louis, Mo.

POST-OFFICE DEPARTMENT, INSPECTOR'S OFFICE,
St. Louis, Mo., May 9, 1885.

SIR. I have the honor to forward you herewith a letter from Inspector Hanna, who investigated the loss of registered packages at your office by the theft of Hoover, and for which loss you paid \$450. I considered it at that time a great hardship that you were compelled to make this loss good, and regretted that my duty called upon me to demand the money, but I have always worked upon the theory that, where the people entrust their money to the mail and it is lost while in the custody of employees of the Railway Mail Service, it should be made good.

You paid this money freely and without question upon my demand. I am of the opinion that you gave these registers the usual and ordinary care, and only lost them through the criminality of one of your clerks. If you can in any manner be reimbursed by the Government for the money paid on this account, I hope that you may accomplish this end.

Respectfully,

E. R. SHIPLEY, P. M.

WARREN P. EDGARTON, *Inspector in Charge.*

POST-OFFICE DEPARTMENT,
OFFICE OF ASSISTANT ATTORNEY-GENERAL,
Washington, D. C., June 28, 1886.

SIR: I have the honor to acknowledge the receipt of your communication of date the 27th instant, relating to the loss of a registered package containing a sum of money. You state that Mr. Shipley, the postmaster at Springfield, Mo., from or in whose office the package was stolen, has paid the amount of the loss to the persons who were the losers by the theft, and that he wishes the Post-Office Department to make good the amount to him.

This can not be done. Revised Statutes, section 3926, provides that "the Post-Office Department or its revenues shall not be liable for the loss of any mail matter on account of its being registered."

The liability of the postmaster to the loser in such a case is one depending upon facts. Where a postmaster is guilty of no negligence in the premises, and a sworn assistant, appointed by him, steals the package, the postmaster is held not to be liable.

In *Keenan v. Southworth* (110th Massachusetts, 474) it is said by Judge Gray: "The law is well settled in England and America, that the Postmaster-General, the deputy postmasters, and their assistants and clerks, appointed and sworn as required by law, are public officers, each of whom is responsible for his own negligence only, and not for that of any of the others, though selected by him and subject to his orders." (Lane v. Cotton, 1 Ld. Raym., 641; S. C. Mod., 472; *Whitfield v. De Spencer*, Cowp., 754; *Dunlop v. Munroe*, 7 Cranch, 242; *Schreyer v. Lynch*, 8 Watts, 453; *Bishop v. Williamson*, 2 Fairf., 443; *Hutchins v. Brackett*, 2 Foster, 256.)

In the case in 7th Cranch the U. S. Supreme Court recognizes this doctrine and say that the liability of the postmaster will, in case of moneys lost in the mails, only result from his own neglect in not properly superintending the discharge of duties, when it is intended to charge him for the negligence of his assistants.

In numerous other cases the same rule is laid down, and seems to be clear that a postmaster would not be responsible for moneys stolen by a sworn clerk or assistant if the postmaster were guilty of no negligence in superintending the duties of his office or in keeping the dishonest official in employment.

This question of liability of postmasters to individuals is one that the courts, not the Post-Office Department, authoritatively decide. The inspector in this case probably deemed the postmaster negligent, and advised the payment. It was a matter, however, that the postmaster should have determined for himself, as it appears to me. Having paid it, he has no remedy against the Department.

Very respectfully,

EDWIN E. BRYANT,
Assistant Attorney-General Post-Office Department.

Hon. WILLIAM H. WADE,
House of Representatives.

SPRINGFIELD, MO., *January 13, 1886.*

DEAR SIR: I examined the case of the United States *v.* William Hoover, and although in my opinion the testimony of the witnesses that were examined in behalf of the United States was not strong enough as to facts to warrant his being held for trial, the circumstances pointed very strongly to him. In the examination of the case, which was very thorough and searching, and conducted by Hon. William Warner, who was one of the best prosecuting attorneys ever in this State, there were no facts disclosed to show any negligence or carelessness on the part of the postmaster, Mr. E. R. Shipley, and it was shown that Hoover handled this mail. There was no evidence to show that the registered matter had been handled in a careless way by the postmaster or his employees.

Respectfully,

McLAIN JONES, *United States Commissioner.*

Hon. WILLIAM H. WADE.

The bill is reported favorably with a recommendation that it do pass.

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A. B. PEDIGO.

FEBRUARY 20, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HUTCHESON, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 1280.]

The Committee on Claims, to whom was referred the bill (H. R. 1280) for the relief of A. B. Pedigo, submit the following report:

It has been shown to the satisfaction of your committee that A. B. Pedigo (the party seeking relief by this bill) was the mail contractor on Route No. 8619, Woodville to Beaumont, in the State of Texas, under a contract commencing July 1, 1858, and that he was paid in full to September 30, 1860, and that a balance is due him for service from October 1, 1860, to May 31, 1861, amounting to \$331.06. Said sum of money has never been paid to him by the United States Government or the late Confederate States government, and during the late civil war the said A. B. Pedigo was a loyal citizen of the United States, wherefore your committee unanimously recommend that the bill do pass.



JULIA H. H. CROSBY.

FEBRUARY 20, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STRODE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 446.]

The Committee on Pensions, to whom was referred the bill (H. R. 446) increasing the pension of Julia H. H. Crosby, widow of Freeman E. Crosby, late lieutenant United States Navy, have considered the same, and report:

Mrs. Crosby is the widow of Freeman H. Crosby, late lieutenant United States Navy, who was drowned in the active service in the line of his duty off the west coast of Washington on August 18, 1894.

While attached to the U. S. S. *McArthur* Lieutenant Crosby, in charge of the whaleboat, attempted to land through the surf about 17 miles north of Grays Harbor, State of Washington, to build a hydrographic signal, and while in the surf the boat was capsized and he was drowned.

Lieutenant Crosby was appointed midshipman in the Navy July 27, 1866, and was promoted through the different grades to the rank of lieutenant, which he attained on August 30, 1881. He performed arduous and distinguished services, and was one of the officers who volunteered to go to the Arctic regions with Capt. W. S. Schley, in 1884, aboard the U. S. S. *Bear*. Commander Schley commends in the highest terms the conduct of the deceased officer on that voyage, and states that the loss to his country and to the naval service was very great when Lieutenant Crosby met so terrible a fate in the breakers of the Pacific.

The claimant is now in receipt of a pension of \$25 per month, granted under the general laws, with \$2 additional per month each for her two little children, one of whom is but 6 years old and the other 8.

Lieutenant Crosby at his death left nothing for the support of his widow and children aside from about \$4,000 life insurance, and the whole of this amount she has recently lost through the failure of a banking firm of Binghampton, N. Y.

Many prominent business men of Binghampton certify to this fact, and give it as their opinion that little or nothing will ever be saved from the wreck.

The papers before your committee show the claimant to be a most estimable and deserving woman, and that she has absolutely nothing now aside from her pension with which to maintain herself and support and educate her children.

There are several precedents for the allowance of an increased pension in cases of this character, and in the light of the facts presented

above your committee recommend the passage of the bill with the following amendments:

Change the title so as to read: "A bill to increase the pension of Julia H. H. Crosby;" strike out the initial "E." occurring in the deceased officer's name, and substitute therefor the initial "H.;" strike out the word "fifty," in line 9, and insert in lieu thereof the word "thirty-five;" strike out all after the word "month," in line 9, to and including the word "children," in line 10.

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ARMSTEAD M. RAWLINGS.

FEBRUARY 20, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STALLINGS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 1062.]

The Committee on Pensions, to whom was referred the bill (H. R. 1062) granting a pension to Armstead M. Rawlings, have considered the same, and report:

The claimant was a private in Captain Bateman's Company of Mounted Arkansas Volunteers (subsequently Company B, First Battalion, Second Regiment Arkansas Mounted Gunmen), Sabine Indian war, and served therein from September 30, 1836, until March 30, 1837, when honorably mustered out.

The service is of record at the War Department, and it is also shown in the soldier's bounty-land papers on file at the Pension Office.

Mr. Rawlings is now over 76 years old and in dependent circumstances. His identity with the soldier who rendered the service is shown by the testimony of C. M. Ball and Warren G. Ball, old residents of Independence County, Ark., where claimant resides, and his financial condition is certified to by the gentleman who introduced the bill in the House, he having known the applicant for many years.

The Sabine Indian disturbances were inadvertently omitted from the list of Indian wars named in the Indian war pension act of July 27, 1892, and hence those who participated in the Sabine war are obliged to depend for relief upon special acts of Congress.

This case seems to fully justify favorable action, and the passage of the bill is respectfully recommended.



MISS JULIETTE BETTS.

FEBRUARY 20, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HALTERMAN, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 4395.]

The Committee on Pensions, to whom was referred the bill (H. R. 4395) granting a pension to Juliette Betts, have considered the same and report:

The claimant is the daughter of Hezekiah Betts, a revolutionary soldier, whose service is shown in the following statement from the Pension Bureau:

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., February 1, 1896.

SIR: In response to your request of the 29th ultimo, herewith returned, for a report of the service of Hezekiah Betts, Capt. Stephen Betts's Company, Connecticut Volunteers, war of the Revolution, I have to report that the papers in the claim of his widow, Grace Betts, No. 17277, show that he enlisted July 11, 1779, and served three years, and that he served under Colonels Butler and Webb.

Very respectfully,

WM. LOCHREN, *Commissioner.*

HON. H. C. LOUDENSLAGER,
Chairman Committee on Pensions, House of Representatives.

From the sworn statement of Miss Betts it appears that she is 91 years old, unmarried, and the only surviving child of the soldier, who died in 1837, leaving a wife, who died in 1840. It further appears, from her statement, that both the soldier and his widow were pensioners and that she is in feeble health and entirely dependent upon the charity of friends for support.

A communication signed by all of the officers of the Norwalk, Conn., chapter of the Daughters of the American Revolution fully corroborates the claimant's statements as to her relationship to the soldier, her age, and her dependence, and her allegations are also corroborated by the certificate of the pastor and deacons of the First Congregational Church of Norwalk.

There are several precedents for the proposed legislation, and in view of the long service of the soldier and the great age and destitution of the claimant, the passage of the bill is recommended, amended, however, by striking out the words "subject to the provisions of the pension laws," in line 5, and substituting therefor the words "at the rate of twelve dollars per month."

MARY CRAY.

FEBRUARY 20, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. POOLE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 4598.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4598) granting a pension to Mary Cray, submit the following report:

Mary Cray is the widow of Michael Cray, private of Company G, One hundred and fifth New York, and Company G, Ninety-fourth New York Infantry, who enlisted November 9, 1861, and was discharged July 18, 1865, and who died December 6, 1874, of cancer of the neck. The evidence shows that the soldier received a gunshot wound in the neck at the battle of Antietam, Md., on the 17th of September, 1862. The ball entered the right shoulder near the top and passed through, making its exit through the shoulder blade. Dr. James M. Casy, assistant surgeon One hundred and fifth New York Infantry, testifies that he dressed the wound at the time of the battle, and describes the wound as above. Comrades of Cray who were with him when he received the wound corroborate the condition of the wound, and both testify to Cray's complaining of pain in the shoulder from the wound until the time of his death. Dr. Charles Buckley, a well-known physician of Rochester, N. Y., testifies that he was well acquainted with the soldier, and in 1873 prescribed for him for a swelling on the right side of neck below the ear, and behind the carotid artery. After a careful examination by Dr. Buckley and two other surgeons, it was decided to attempt to remove it. After proceeding with the operation it was found to be a growth of a malignant character, situated on the vertebral column and impossible to remove.

The disease was fatal in its character, and produced death in 1874. Dr. Buckley further testifies that it may be considered probable that the cancer was caused from the effects of the gunshot wound received in service. Three citizens of Rochester, N. Y., testify that they were neighbors of Cray, and knew him intimately from the time of his return from the Army, in 1865, up to the time of his death, in 1874, and that they often heard him complain of the wound in his neck that he suffered from until his death. Cray never applied for a pension. His widow applied for a pension under the general law in 1879, and was rejected June 30, 1882, on the ground that gunshot wound of shoulder was not the cause of cancer of the neck, from which soldier died. The claim was appealed in 1895, but rejection was affirmed January 4, 1896.

The medical referee of the Pension Bureau refuses to accept cancer as result of the wound. The claimant received a pension under act of June, 1890, on October 31, 1891, at \$8 per month. The question involved is, whether the opinion of Dr. Richards, who treated soldier from discharge to his death, and that of Dr. Buckley and the other physicians who examined and attempted an operation on soldier in 1873 for the malignant growth, and the testimony of neighbors as to cause of death as the result of wound received in battle should be set aside by the medical referee, who never saw the soldier, but who formed his opinion only on a theory, while the doctors who examined him formed their opinions on a condition which they found upon examination.

The committee are of the opinion that the evidence is very conclusive and satisfactory on this point, and therefore recommend the passage of this bill with an amendment, striking out all after the word "month," in last line, and adding "in lieu of all other pension."



C. M. BEACH.

FEBRUARY 20, 1896.—Ordered to be printed.

Mr. ODELL, from the Committee on Accounts, submitted the following

REPORT:

[To accompany House Res. No. 174.]

The Committee on Accounts, to whom was referred the accompanying resolution providing that the compensation of C. M. Beach, now on the laborer's roll in the department of the Doorkeeper, be increased from \$400 per annum to \$720 per annum, said extra compensation to be paid out of the contingent fund of the House, beg to report that they have made investigation of the subject, and are unanimously of the opinion that the salary of this employee is wholly inadequate, as he performs similar work as those who receive a larger compensation, and is considered as faithful and useful as any of his fellow-employees.

Your committee therefore report said resolution with the recommendation that the same be adopted.

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DAVID MOSTEN.

FEBRUARY 21, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. TYLER, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 1936.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 1936) to remove the charge of desertion standing against David Mosten, have duly considered the same and recommend its passage.

It appears from the records of the War Department that David Mosten enlisted October 25, 1873, as a private in Company A, Nineteenth Infantry United States Army, for five years; was discharged October 25, 1878, by expiration of service, and on the same day reenlisted in the same company; that after more than three years' service under his second enlistment he left his command without leave December 27, 1881, at Fort McIntosh, Tex., and while absent without leave he again enlisted August 2, 1882, in Battery H, Third Artillery, under the name of Frank Blow; that while so serving he was recognized, acknowledged his identity, was tried by court-martial for desertion, was convicted and sentenced on May 4, 1885, "to be dishonorably discharged from the service of the United States, forfeiting all pay and allowances now due or to become due, and then to be confined at hard labor, at such military prison as the reviewing authority may direct, for four years.

Accompanying this sentence was the unanimous recommendation of the trial court that clemency be extended to the prisoner, based upon his previous faithful service and upon numerous testimonials to the excellence of his character, and the period of his confinement was mitigated to two years. It also appears to your committee that the said David Mosten was released after four months' imprisonment under the sentence of the court-martial, and the records show that by authority from the War Department he was permitted to enlist again in Battery I, Second Artillery, and has continued to serve in that battery from September 15, 1885, to the present date.

In view of the long and faithful service of this soldier of eleven years since his absence without leave under his original enlistment, showing a total service of nearly twenty-three years, of the further fact of his release from imprisonment imposed by the court-martial and his admission thereafter again into the military service of his country, the committee considers that the fault committed by him so long ago has been fully expiated and condoned, and they recommend that the bill for his relief be passed.

ATTENDANCE OF WITNESSES BEFORE REGISTERS AND
RECEIVERS OF LOCAL LAND OFFICES OF THE UNITED
STATES.

FEBRUARY 21, 1896.—Committed to the Committee of the Whole House on the state
of the Union and ordered to be printed.

Mr. WILSON, of Idaho, from the Committee on the Public Lands, sub-
mitted the following

REPORT:

[To accompany H. R. 3268.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 3268) entitled "A bill to facilitate the procurement of evidence and to compel the attendance of witnesses in matters before the registers and receivers of the local land offices of the United States," have had the same under consideration and have come to the conclusion that the same should pass.

The chairman of this committee has consulted with the officials of the General Land Office regarding the bill, and they indorse the same and recommend its passage. In fact, the original draft of the bill was made in the General Land Office, and the same without amendment is now reported.

For many years it has been apparent to those charged with the duty of administering the land laws of the United States that a reform in this direction was necessary. The determination of questions arising under the public-land laws, coming before the local land officers may require, and often does require, judicial investigation and construction, yet there is no law compelling the attendance of witnesses before those officers and thus ascertaining the facts in each case.

In many cases, therefore, it necessarily follows that it is impossible to get the evidence most necessary and essential for a proper determination of the case. This bill seeks to correct that evil and, so far as possible, place these investigations on a similar footing with courts of law. The experience of the Department has shown this legislation to be necessary, and in the opinion of this committee, unanimously arrived at after an investigation, the bill should pass.

Your committee believe it will subserve the interests of the people of the public-land States as well.

TOWN SITES IN OKLAHOMA.

FEBRUARY 21, 1896.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. LACEY, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany H. R. 1191.]

This bill was submitted to the Secretary of the Interior, and thereupon the Secretary submitted the following report and a substitute bill to the committee.

DEPARTMENT OF THE INTERIOR,
Washington, February 13, 1896.

SIR: I have the honor to hand you herewith a report from the Commissioner of the General Land Office, dated the 11th instant, on H. R. 1191, "To reaffirm an act of the Oklahoma legislature, approved February 27, 1895, and for other purposes."

The Commissioner is of the opinion, for the reasons in his report, that the bill (a copy of which he herewith transmits) should be substituted in lieu of H. R. 1191. I concur in the Commissioner's recommendation.

Very respectfully,

HOKE SMITH, *Secretary.*

Hon. JOHN F. LACEY,
Chairman Committee on the Public Lands, House of Representatives.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., February 11, 1896.

SIR: I have the honor to acknowledge receipt, for report in duplicate and return of papers, of House bill No. 1191, entitled "A bill to ratify an act of the Oklahoma legislature, approved February twenty-seventh, eighteen hundred and ninety-five, and for other purposes."

The purpose of the bill is to provide for the disposal of reservations in town site commuted under section 22, act of May 2, 1890 (26 Stat. L., 81), where such town site has been "vacated" in accordance with the laws of the Territory of Oklahoma.

While the object intended by the bill is one for which some provision should be made, the measure proposed does not meet with the approval of this office in its present form.

I, therefore, have the honor to recommend the substitution of a bill of the form herewith inclosed, in lieu of House bill No. 1191.

As the act of the Oklahoma legislature, approved February 27, 1895, which the bill, No. 1191, proposes to ratify, contravenes no law of the United States and needs no ratification, that feature has been omitted from the form of bill submitted.

The papers are returned.

Very respectfully,

S. W. LAMOREUX, *Commissioner.*

The SECRETARY OF THE INTERIOR.

SUBSTITUTE FOR THE BILL.

A BILL to provide for the disposal of public reservations in vacated town sites or additions to town sites in the Territory of Oklahoma.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases where a town site, or an addition to a town site, entered under the provisions of section twenty-two of an Act entitled "An Act to provide a temporary government for the Territory of Oklahoma, to enlarge the jurisdiction of the United States court in the Indian Territory, and for other purposes," approved May second, eighteen hundred and ninety, shall be vacated in accordance with the laws of the Territory of Oklahoma, and patents for the public reservations in such vacated town site, or addition thereto, have not been issued, it shall be lawful for the Commissioner of the General Land Office, upon an official showing that such town site, or addition thereto, has been vacated, and upon payment of the homestead price for such reservations, to issue a patent for such reservations to the original entryman.

If the original entryman shall fail or neglect to make application for the reservations within six months from the vacation of such town site, or from the passage of this Act, the reservations shall be subject to disposal under the provisions of section twenty-four hundred and fifty-five of the Revised Statutes of the United States, as amended by the Act approved February twenty-sixth, eighteen hundred and ninety-five.

SEC. 2. That if a patent has already issued, or shall hereafter issue, for any such reservation, to any town or municipality, such town or municipality, upon the vacation of the town site or addition thereto, as aforesaid, may sell the same at public or private sale to the highest bidder after thirty days' public notice of such sale, and convey said lands to the purchaser by proper deed of conveyance, and cover the proceeds of such sale into the school fund of such town or municipality: *Provided*, That where, by reason of the vacation of an entire town site and all its additions, the municipal organization has ceased to exist, the reservations in such vacated town site which may have been patented to the town may be disposed of as isolated tracts under the provisions of section twenty-four hundred and fifty-five of the Revised Statutes of the United States, as amended by the Act approved February twenty-sixth, eighteen hundred and ninety-five.

SEC. 3. That all laws and parts of laws, in so far as they conflict with this Act, are hereby repealed.

The proposed substitute of the Commissioner of the General Land Office effects the purpose for which the original bill was introduced and intended.

The reasons for the passage of the substitute sufficiently appear in the correspondence above.

The committee therefore recommend that all after the enacting clause be stricken out and that the above substitute be adopted and passed.

POWER OF THE SECRETARY OF THE TREASURY TO REMIT
FINES, ETC.

FEBRUARY 21, 1896.—Ordered to be printed.

Mr. PAYNE, from the Committee on the Merchant Marine and Fisheries,
submitted the following

REPORT:

[To accompany S. 1740.]

The Committee on the Merchant Marine and Fisheries, to whom was referred the bill (S. 1740) to amend section 5294 of the Revised Statutes of the United States, relative to the power of the Secretary of the Treasury to remit or mitigate fines, penalties, and forfeitures, and for other purposes, have carefully considered the same and report thereon as follows:

For the reasons suggested in the accompanying letter of the Acting Secretary of the Treasury, in response to the inquiry of the chairman of the Senate Committee on Commerce, the committee recommend the passage of the bill.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., January 28, 1896.

SIR: Replying to your letter of the 24th instant, inclosing copy of Senate bill 1740, and requesting that your committee be furnished with such suggestions as I may deem proper touching the merits of the bill and the propriety of its passage, I have the honor to say:

The passage of the bill is desired to facilitate commerce and avoid the likelihood of conflicting decisions of the courts and to establish a plain rule for the guidance of this Department.

Section 5294, Revised Statutes, was amended by chapter 7 of the laws of 1894 so as to include sailing vessels. The title of that law is "An act to enable the Secretary of the Treasury to remit or mitigate fines, penalties, and forfeitures." The word "forfeitures," however, was not included in the original law or in the amendatory act of 1894. The Solicitor of the Treasury has held, in an opinion rendered January 2, 1896, that the Secretary of the Treasury has the power to remit a forfeiture under section 5294. The Attorney-General, however, has held, in an opinion rendered January 10, 1896, "The amendment [of 1894] extended the section [5294] to all vessels, but did not broaden its terms so as to include forfeitures of vessels. A clear omission from a statute like this can not be supplied upon any consideration of supposed oversight, inconsistency, or hardship."

The bill supplies in the text of the section the omitted word "forfeitures," which was included in the title of chapter 7 of the laws of 1894.

Respectfully, yours,

S. WIKE, *Acting Secretary.*

Hon. WILLIAM P. FRYE,
Chairman Senate Committee on Commerce, Washington, D. C.

CONVENTION OF THE PROTESTANT EPISCOPAL CHURCH
OF THE DIOCESE OF WASHINGTON.

FEBRUARY 21, 1896.—Referred to the House Calendar and ordered to be printed.

Mr. ODELL, from the Committee on the District of Columbia, submitted
the following

REPORT:

[To accompany H. R. 6407.]

The Committee on the District of Columbia, to whom was referred the bill (H. R. 4958) for the incorporation of the convention of the Protestant Episcopal Church of the diocese of Washington, having considered the same, report a substitute therefor, with the recommendation that it do pass.

The substitute does not differ essentially from the original bill, the changes being almost entirely corrections of clerical inaccuracies, chiefly in the preamble.

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SALE OF TITLE OF UNITED STATES TO CERTAIN TRACTS
OF LAND IN THE DISTRICT OF COLUMBIA.

FEBRUARY 21, 1896.—Committed to the Committee of the Whole House and ordered
to be printed.

Mr. BABCOCK, from the Committee on the District of Columbia, sub-
mitted the following

REPORT:

[To accompany H. R. 6408.]

The Committee on the District of Columbia, to whom was referred the bill (H. R. 5159) authorizing the sale of title of the United States to certain tracts of land in the District of Columbia to Margaret Shugrue and Caroline Lochboehler, having fully considered the same report a substitute therefor with the recommendation that it do pass.

On February 19, 1895, the Secretary of War transmitted to Congress a report from Col. George H. Elliot, Corps of Engineers, in charge of the Washington Aqueduct, inviting attention to certain encroachments by Margaret Shugrue and Caroline Lochboehler upon Government land pertaining to the aqueduct, which letter and report were as follows:

WAR DEPARTMENT,
Washington, D. C., February 19, 1895.

SIR: I have the honor to transmit herewith a report dated the 15th instant from Col. George H. Elliot, Corps of Engineers, the engineer officer in charge of the Washington Aqueduct, inviting attention to the fact that certain buildings, the property of Margaret Shugrue and Caroline Lochboehler, encroach upon the Government land pertaining to the aqueduct, plats of the encroachment and correspondence bearing on the subject being inclosed with said report, and recommending that in view of the facts recited by him action be taken by Congress permitting the sale of the land involved to the parties named, and to which end he submits the accompanying copy of a bill authorizing such sale.

I concur with the Chief of Engineers in the views of the engineer officer, and accordingly submit the matter with recommendation for favorable action.

Very respectfully,

DANIEL S. LAMONT, *Secretary of War.*

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

OFFICE OF THE WASHINGTON AQUEDUCT,
Washington, D. C., February 15, 1895.

GENERAL: Before my retirement from this office and from active service, I desire to invite attention to the encroachments of buildings belonging to Margaret Shugrue and Caroline Lochboehler on the Government lands pertaining to the Washington Aqueduct.

The encroaching buildings of Margaret Shugrue consist of a small frame dwelling, which is partially, and a cow stable which is wholly, on Government land. The place is on the Conduit road, about 3 miles from Washington, near culvert 24, and about halfway between the upper and lower reservoirs.

The encroaching building belonging to Caroline Lochboehler is a small brick dwelling house, a portion of which is on Government land. It is on the Conduit road, near culvert 26, about 2½ miles from Washington, and just above the distributing reservoir.

These encroachments were developed by a survey that I caused to be made in 1890 of the lands pertaining to the aqueduct between the two reservoirs, the result of which survey I reported to the Department November 5, 1890.

I inclose appended hereto plats of the encroachments and copies of letters addressed to me, stating the circumstances under which the encroachments were made. They are—

A letter from the late Michael Shugrue, husband of Margaret, dated September 26, 1890;

A letter from Margaret Shugrue, dated February 3, 1895, and

A letter from Mrs. Caroline Lochboehler, dated September 19, 1890.

From several years' knowledge of these persons, and of the absence of boundary stones on the boundary lines of the aqueduct land pertaining to the Conduit road that existed for many years, I am satisfied that the statements of these letters are essentially correct, and that the encroachments were innocent and not fraudulent or with any evil intent.

Sales to them of the small tracts described containing the improvements of these persons would not in the slightest degree be detrimental to the Washington Aqueduct, and I recommend that a bill in the form herewith be submitted to Congress at this session with recommendation for favorable action. This bill is substantially in the form of an act authorizing the sale of title of the United States to a tract of land on the Conduit road near Cabin John Bridge to William H. and George Bobinger, approved January 26, 1895.

An inspection of the plats will show that the land proposed to be sold to Mrs. Shugrue is only the portion of her house lot that is on Government land, and does not include the land covered by her cow stable. She is willing and will be obliged to move the latter to her own farming land in rear of her house.

Very respectfully, your obedient servant,

GEORGE H. ELLIOT, *Colonel of Engineers.*

Brig. Gen. THOMAS L. CASEY,
Chief of Engineers, U. S. A.

Besides the above report the Secretary of War also transmitted plats showing the encroachments, and the draft of a bill authorizing the sale of the land, and the correspondence was printed in House Ex. Doc. No. 327, Fifty-third Congress. The bill was introduced, but, owing to the lateness of its introduction, no action was taken thereon by the Fifty-third Congress.

On January 11, 1896, the Secretary of War transmitted to Congress a letter containing the past correspondence of an official nature and that of the parties in interest, and included the draft of a bill which your committee substitute for bill H. R. 5159. This bill differs from H. R. 5159 in that it is framed to include the case of John R. Scott, which is precisely similar to those of Margaret Shugrue and Caroline Lochboehler. The situation of the parties may be fully understood by reference to the above-mentioned letter and the plat appended, which are printed as House Doc. No. 135, Fifty-fourth Congress.

The encroachments in the three cases of Shugrue, Lochboehler, and Scott extend back for twenty years. The officials who have inquired into the matter are satisfied that there has been no fraudulent intent in any of the encroachments, but that they have been occasioned through the absence or misplacement of boundary marks on boundary lines.

The parties are all poor, and your committee believe that favorable action on the accompanying bill should be taken by the House.

JOHN LITTLE AND HOBART WILLIAMS.

FEBRUARY 21, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GRAFF, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 140.]

The Committee on Claims, to whom was referred the bill (H. R. 140) for the relief of John Little and Hobart Williams, beg leave to report the same with the recommendation that it pass with the following amendment:

Strike out in lines 6 and 7 of the bill, "two thousand dollars," and insert "one thousand four hundred and twenty-three dollars and seventy-five cents."

This bill has been twice reported favorably in the Senate and once in the House—in the Senate at the Forty-ninth Congress, first session, and in the Fifty-first Congress, first session, and in the House during the Fiftieth Congress, first session, and Fifty-third Congress, second session. The report made in the Senate in the Fifty-second Congress, first session, by Senator Manderson, from the Committee on Indian Affairs (Report No. 41), so fully sets forth the facts that your committee adopts the same and makes it a part of this report.

[Senate report No. 41, Fifty-second Congress, first session.]

The Committee on Indian Affairs, to whom was referred the bill (S. 781) for the relief of John Little and Hobart Williams, of Omaha, Nebr., have had the same under consideration, and report the same back and recommend its passage.

This bill has been twice reported favorably in the Senate and once in the House; in the Senate at the Forty-Ninth Congress, first session, and in the Fifty-first Congress, first session, and in the House during the Fiftieth Congress, first session.

Your committee adopt the report made to the Senate in the Forty-ninth Congress, as follows:

The Committee on Indian Affairs having, during the last session of the Forty-eighth Congress, referred to the Court of Claims for the findings of the facts the claim of John Little and Hobart Williams, respectfully report that the findings of said court have been officially certified to said committee by said Court of Claims as follows, to wit:

[In the Court of Claims. John Little and Hobart Williams v. The United States. No. 15, Congressional case.]

At a Court of Claims held in the city of Washington on the 1st day of June, 1885, in the case aforesaid, the court filed findings of fact, and it was ordered that a certified copy thereof, and of the order of the court thereon, be reported to the Senate Committee on Indian Affairs.

BY THE COURT.

J. W. DOUGLASS, Esq.,
Attorney of Record.

[In the Court of Claims. Congressional case No. 15. John Little and Hobart Williams v. The United States.]

FINDINGS OF FACTS. FILED JUNE 1, 1885.

This case was referred to the Court of Claims by the Senate Committee on Indian Affairs, under the act of March 3, 1883 (22 Stat., 485), and having been heard by the court, the Attorney-General, by his assistant, F. H. Howe, appearing for the defense and protection of the interests of the United States, and John W. Douglass for the claimants, the court, upon the evidence, finds the facts to be as follows:

I.

The following agreement was entered into by the parties named therein:

This agreement, made this 22d day of January, 1870, between the United States of America, by their superintendent of Indian Affairs, Samuel M. Janney, for the northern superintendency, and Thomas Lightfoot, United States Indian agent for the Iowa tribe of Indians, and the Iowa tribe of Indians, by their delegates, Nag-ga-rash, To-hee, Mah-hee, Tar-a-kee, Ki-ho-ga, and Craton-tha-wa, of the first part, and Ephraim D. Pratt, Lorenzo B. Williams, and Thomas McCague, of the city of Omaha, in the county of Douglas and State of Nebraska, of the second part, witnesseth:

That the parties of the first part, for and in consideration of the covenants on the part of the parties of the second part, hereinafter contained, have this day demised, leased, and rented, and by these presents do demise, lease, and rent for the term of twenty-five years from the date of this instrument unto the parties of the second part, their heirs and assigns, all of the land now owned and occupied by the Iowa tribe of Indians lying and being in the States of Kansas and Nebraska, for the purpose of prospecting for and mining coal and coal mineral, including "fire clay," with the right and privilege to take therefrom all coal and clay for their own use and behoof, together with so much of the timber growing upon the said lands as may be required for propping up the mines and prosecuting the same; also, 25 acres of the surface of said tract of land, the precise location of which shall be designated at some future time, subject to the approval of the Iowa tribe of Indians, by their delegates or chief, for the legitimate prosecution of their said mining operations. The said party of the first part further agrees to give unto the said party of the second part quiet and peaceable possession of said land, and to defend them therein, together with the privilege of ample roadways across said tract of land to and from said mines without charge or cost, subject to the conditions hereinafter mentioned. The parties of the second part agree to keep a correct account of all coal mined from said coal lands, and to render a correct account of the same every three months, and to pay 1 cent per bushel as rent for the same to the said party of the first part.

The said party of the first part shall be privileged by their agent or representative at all times to examine the mines and the mining operations of the party of the second part, together with their books, papers, and accounts, and every requisite facility shall be given to them to ascertain the precise amount of coal mined or sold from said lands. The parties of the second part agree to faithfully work the said mines if, after prospecting, they shall find it is policy or profitable so to do; but if they should find it otherwise, and should hereafter cease to work said mines for the space of six months during the continuance of this lease, then the party of the first part shall have the power to declare this lease null and void, and to take possession of the said mining operations without objection to or hindrance from the said parties of the second part.

The parties of the second part agree to pay to the party of the first part the sum of \$1 per cord for all of the timber taken from said lands for the mining operations aforesaid, and to make use of down or fallen timber whenever it is accessible and convenient.

The parties of the second part further agree to sell to the Iowa tribe of Indians, and to the Indian agent and their employees, all the coal they may require for their own private use, at the lowest wholesale prices, and that the said Iowa Indians shall have their coal for their shops free of charge at the mines, not to exceed 10 tons per annum.

The parties of the second part shall have the privilege of erecting such buildings and machinery as may be necessary to carry on the said mining business, with full power to take the minerals, buildings, and machinery away at their pleasure.

It is expressly understood and agreed by the parties hereto that this lease is subject to termination without charge, loss, or damage to the United States, in case disposition is made of the lands by treaty stipulations or otherwise.

In witness whereof we have hereunto set our hands and seals the day and year first written above.

DEPARTMENT OF THE INTERIOR (INDIAN),
Washington, D. C., March 16, 1870.

SIR: I have approved and herewith return the lease from the United States, through Supt. Janney and Agent Lightfoot, and from the Iowa tribe of Indians to Ephraim D. Pratt and others, for mining operations on the Iowa lands in Kansas and Nebraska, as recommended in your letter of the 5th instant.

Very respectfully, your obedient servant,

W. T. OTTO, *Acting Secretary.*

The COMMISSIONER OF INDIAN AFFAIRS.

This lease, after passing through several hands, was finally purchased by the claimants in November, 1875.

In March, 1876, the following letter was sent to the Indian agent at Omaha:

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, D. C., March 29, 1876.

SIR: I acknowledge herewith the receipt of your letter of the 7th ultimo, notifying this office of the change of title of the Omaha Coal Mining Company to that of the Nebraska Coal Mining Company, and of the instructions given by you to Agent Kent with reference to receiving royalty on coal mined by said company, and expending the same for the benefit of the Iowa Indians.

A decision of the Supreme Court of the United States rendered at the October term, 1873, in the case of the United States *vs.* George Cook, so materially affects the rights supposed to be acquired by said company under the said lease, and of the Indians in and to the moneys arising from operations thereunder, that it will necessitate the immediate cessation of all mining operations on the reserve, and the covering of all royalty arising from that source into the Treasury of the United States.

The case cited arose upon a question of the rights of the Oneida Indians to cut and sell timber growing upon the tribal reservation. The Supreme Court held that "the right of the Indians in the land from which the logs were taken was that of occupancy alone. They had no power of alienation except to the United States.

"The fee was in the United States subject only to their right of occupancy; that timber while standing is a part of the realty, and it can only be sold as the land could be; the land can not be sold by the Indians, and consequently the timber, until rightfully severed, can not be. It can be rightfully severed for the purpose of improving the land or the better adapting it to convenient occupation, but for no other purpose. If the timber should be severed for the purpose of the sale alone, in other words, if the cutting of the timber was the principal thing, and not the incident, then the cutting would be wrongful, and the timber when cut become the absolute property of the United States. The cutting was waste, and, in accordance with well-settled principles, the owner of the fee may secure the timber cut, arrest it by replevin, or proceed in trover for its conversion."

The principles recognized in this case are decisive of the question involved in this lease. The rules of law that are here applied to the removal of timber from an Indian reservation, other than for the sole purpose of improving the land for occupancy, apply also to the severing of any other material from the realty. The mining of coal by the said mining company coming within the provisions of this ruling, the application of the principles laid down determines the rights of all the parties under said lease. You will therefore, upon the receipt of this letter, instruct Agent Kent to notify the proper officers of said coal mining company to account for all coal mined to date, and to immediately cease operations under their lease.

You will also instruct Agent Kent that all moneys which have already, or which may hereafter, come into his hands under the provisions of the lease must be covered into the Treasury of the United States under the head of miscellaneous receipts.

Very respectfully,

J. Q. SMITH, *Commissioner.*

BARCLAY WHITE,

Superintendent Indian Affairs, Northern Superintendency, Omaha, Nebr.

The Indian agent gave the required notice to the claimants. A correspondence with the Department followed, in which the claimants protested against the order. They, however, left the premises soon after.

III.

Value of the leasehold and property.

Prior to the purchase by the claimants the leasehold premises had been considerably improved by former owners. A coal drift had been made in the bank facing the river, a car track laid in the drift, and a chute constructed at the mouth. Two frame buildings and a shanty had been erected upon the premises.

The personal property on the premises consisted of coal cars, tools, furniture, etc., which, in the purchase, were inventoried at \$473.75.

The claimants paid for the leasehold and betterments \$950; for the personal property, \$473.75; total, \$1,423.75.

During the claimants' occupancy they mined 100 tons of coal, and sold the same for \$800. The proceeds of the sale of coal were probably exhausted in repairing and operating the mine.

The claimants estimate their whole outlay at about \$4,000 or \$5,000, but furnish no items or statement of accounts in support of their estimate.

The condition of the premises at the time they left them, as compared with their condition when they first took possession, shows that the whole expenditures in repairs or improvements could not have exceeded a few hundred dollars. The personal property was of so little value that they did not remove it.

The outlay of the claimants in excess of the sums received from the sale of coal would probably not exceed \$2,000.

IV.

Prospective profits.

The claimants estimate their prospective profits at about \$15,000. The evidence, however, furnishes no foundation for such expectations. So far no profit has been realized, either by the claimants or former owners. One of the claimants states in his testimony that his estimate of prospective profits is based upon the belief that profitable veins of coal will ultimately be discovered. Such expectations are too uncertain for judicial calculation.

V.

Expenditure by former owners.

The claimants also insist that in calculating their losses the expenditures of former owners should be considered. They state the amount to be about \$15,000.

It may well be supposed from the improvements on the ground that several thousand dollars have been expended there by former owners; but the court is furnished with no satisfactory evidence upon the subject.

The market value of the property at the time the claimants were dispossessed—not the amount expended upon it—indicates their loss. The whole plant cost the claimants the amount set forth in Finding III. The evidence does not show that they paid for the property less than its market value, nor that they afterward expended upon it any considerable sum beyond operating expenses.

Ordered by the court: That a certified copy of the foregoing findings of facts and of this order be reported to the Senate Committee on Indian Affairs.

IN THE COURT OF CLAIMS, *Washington, D. C.:*

I certify that the foregoing are two transcripts of the order of the court and of the findings of fact filed June 1, 1885, by the court in case of John Little and Hobart Williams v. The United States, No. 15, Congressional.

In testimony whereof I have hereunto set my hand and affixed the seal of said court this 4th day of January, 1886.

[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Your committee therefore recommend that said claimants be paid the sum of \$1,423.75.

NANCY GENTRY.

FEBRUARY 21, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COLSON, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 5175.]

The Committee on Pensions, to whom was referred the bill (H. R. 5175) granting a pension to Nancy Gentry, have considered the same and report:

Nancy Gentry is the widow of John A. Gentry, who served as a private in Captain Jetton's company of Tennessee Mounted Volunteers from May 19, 1836, to June 16, 1836, Cherokee Indian war. This service, which covered a period of twenty-nine days, is a matter of record at the War and Treasury Departments.

It is also alleged that he served from June 26, 1836, to December 28, 1836, in Captain Fletcher's company of cavalry, but no record of this service can be found.

In her application to the Pension Bureau under the Indian war service pension act of July 27, 1892, the claimant has shown that she married the soldier in 1845 and remained his wife up to his disappearance from home in 1857; that he has not since been seen or heard from, and that she has never remarried.

The claim was rejected on the ground that the service of the soldier, so far as it is shown by the records, was one day short of the time required to give title under the law.

The claimant is about 71 years old, a great sufferer from rheumatism, and with no means of support except a small mountain farm worth not more than \$200. She is now unable to do any work and is obliged to rely upon the assistance of others. These facts are shown by the sworn statements of L. C. Farmer and W. J. Kerley, residents of Bledsoe County, Tenn.

The passage of the bill is respectfully recommended.

○

ELIZABETH T. BEALL.

FEBRUARY 21, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STRODE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 3033.]

The Committee on Pensions, to whom was referred the bill (H. R. 3033) granting an increase of pension to Elizabeth T. Beall, have considered the same, and report as follows:

It is shown by a report of the Adjutant-General United States Army that the deceased soldier, Benjamin L. Beall, entered the service of the United States June 8, 1836, as captain of the Second Dragoons; was subsequently promoted to be colonel, and retired from active service February 15, 1862, for incapacity resulting from long and faithful service. He died in the city of Baltimore August 16, 1863.

Mrs. Beall is now pensioned at \$30 per month under the general law, and her petition for an increase of the same is as follows:

BALTIMORE, February 27, 1894.

To the Senate and United States House of Representatives.

GENTLEMEN: I beg leave most respectfully to petition to you for an increase of my pension. I have arrived at that age (now in my ninety-third year) where I require such care and attention that my present pension of \$30 per month is wholly inadequate to supply.

I am the widow of the late Col. Benjamin L. Beall, of the First United States Cavalry, who, during a long life, rendered distinguished services to his country.

Through the influence of Hon. Lewis Cass and Daniel Webster he was appointed captain in the Second Regiment of Dragoons, United States Army, by President Andrew Jackson in 1836, and was ordered to Florida, where he rendered such valuable service that Gen. W. J. Worth recommended him for promotion for his successful contests with the Indians.

In said recommendation General Worth says: "Capt. B. L. Beall has met the enemy in this contest oftener, perhaps, than any other officer; is brave and generous. Would therefore recommend him for promotion."

Was promoted to the brevet rank of major for gallantry and successful services in the war against the Florida Indians March 15, 1837.

Ordered to the Indian Territory after the Florida war to select a site for a fort. Established Fort Washita; and stationed there until the war with Mexico, where he served with distinction. After said war he was ordered to New Mexico; there served as civil and military governor. From there ordered to California and commanded Fort Tejon until the death of General Clark. Then commanded the Department of the Pacific from 1860 to 1861. For a time was conspicuously associated with the history of the Pacific Coast. From there was ordered East, placed on the retired list of the Army, and died at the city of Baltimore in the month of August, 1863.

Hoping this will meet with your earliest consideration and approbation,

I have the honor to be, most respectfully, your obedient servant,

ELIZABETH T. BEALL.

The claimant's allegations as to her age and dependence are borne out by the testimony of Dr. Y. S. Marriott, Dr. H. M. Wilson, and other

reputable residents of the city of Baltimore; and it is further shown that by reason of failing eyesight and other ailments incident to her great age she has for a long time past needed the services of an attendant.

It appears further that she has had dependent upon her an invalid granddaughter, and this, together with the requirements of her own condition, have long since exhausted all her means except the pension referred to above. She was married to the soldier in 1824.

There are several precedents for the allowance of \$50 per month to the widows of soldiers who attained the rank held by the claimant's husband, and in view of her extreme age and the necessities of her condition your committee believe that she should be allowed such a sum as will provide her necessary attendance and care during the remaining days of her life, which must of necessity be very few.

The bill is therefore returned with the recommendation that it be amended by striking out the words "one hundred," in line 6, and substituting therefor the word "fifty," so as to allow a pension of \$50 per month, and that as so amended the bill do pass.

○

THERESA PEEBLES.

FEBRUARY 21, 1896.--Committed to the Committee of the Whole House and ordered to be printed.

Mr. BLACK, of Georgia, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 4355.]

The Committee on Pensions, to whom was referred the bill (H. R. 4355) granting an increase of pension to Theresa Peebles, have considered the same and report:

The claimant is the widow of Henry Peebles, who served as a private in Capt. John P. Harvey's Company of Georgia Volunteers from August 24, 1813, to March 12, 1814, in the war of 1812.

The soldier died September 21, 1880, and his widow (the claimant) has since been granted the pension of \$12 per month allowed by the general pension laws to the widows of soldiers of the war of 1812.

Mrs. Peebles married the soldier in 1864, and she is now about 66 years old.

The above facts are shown by the papers on file at the Pension Bureau, and it appears from an affidavit signed by Joshua F. Denton, J. T. Glover, James Stapleton, and E. N. Stapleton that the claimant is very feeble and afflicted, and that she has but little means aside from her pension. She has been living alone until recently, her condition becoming such that she has been obliged to hire a woman to live with her.

There are several precedents for the proposed legislation, and in view of the facts above set forth your committee respectfully recommend the passage of the bill with an amendment fixing the rate of pension at \$18 per month.

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ADA J. SCHWATKA.

FEBRUARY 21, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COLSON. from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 710.]

The Committee on Pensions, to whom was referred the bill (S. 710) granting a pension to Ada J. Schwatka, widow of Frederick Schwatka, late first lieutenant Third Cavalry, United States Army, have considered the same, and respectfully report:

Said bill is accompanied by Senate Report No. 55, this session, and the same, fully setting forth the facts, is adopted by your committee as their report, and the bill is returned with the recommendation that it be amended so as to fix the rate of pension at \$17 per month, in accordance with the rank held by the deceased officer, and that as so amended the bill do pass.

[Senate Report No. 55, Fifty-fourth Congress, first session.]

The Committee on Pensions, to whom was referred the bill (S. 710) granting a pension to Ada J. Schwatka, have examined the same, and report:

A similar bill was introduced in the Fifty-third Congress, referred to the Committee on Pensions, reported favorably, and passed the Senate.

The military record of Lieutenant Schwatka is fully set forth in the following communication from the War Department:

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, June 16, 1894.

Statement of the military service of Frederick Schwatka, late of the United Army, compiled from the records of this office.

He was graduated from the United States Military Academy, and appointed second lieutenant, Third Cavalry, June 12, 1871; promoted first lieutenant, Third Cavalry, March 20, 1879; resigned January 31, 1885.

He joined his regiment November 28, 1871, and served with it in Arizona and Nebraska to August 13, 1874; on duty with the Big Horn and Yellowstone expedition to October 2, 1874; with regiment in Nebraska and Wyoming to May 18, 1876; in the field on Big Horn and Yellowstone expedition to October 27, 1876; on duty at Camp Sheridan, Wyo., to November 25, 1877, and at Spotted Tail Agency, Dak., to March 6, 1878.

He left his post in Dakota on the latter date, on leave of absence granted him for the purpose of taking command of the expedition to Lady Franklin Bay to search for the papers of Sir John Franklin's expedition, etc., and was absent on this expedition until September 29, 1880. He was on special duty in New York City from that date until January, 1881; was absent on account of sickness and subsequently on leave of absence until October 21, 1881; served as aid-de-camp to General Miles until May 8, 1884, and in the meantime, while on General Miles's staff, was in command of an exploring expedition in Alaska from May 20 to October 12, 1883. He rejoined his regiment in Arizona in May, 1884, and was on leave from September 6, 1884, until his resignation took effect, January 31, 1885.

During his service he was on leave of absence for the following periods in addition to these above specified:

From September 24, 1875, to March 24, 1876, and from February 28 to September 24, 1882.

J. C. GILMORE, Assistant Adjutant-General.

It will be remembered that in addition to his military services Lieutenant Schwatka rendered the Government valuable service as chief of the expedition in search of the relics of the Sir John Franklin party. In Appleton's Cyclopaedia of American Biography, Volume V, page 433, the following appears:

"Schwatka, Frederick, explorer, born in Galena, Ill., September 29, 1849. After graduation at the United States Military Academy in 1871 he was appointed second lieutenant in the Third Cavalry, and served on garrison and frontier duty until 1877. He also studied law and medicine, and was admitted to the bar of Nebraska in 1875, and received his medical degree at Bellevue Hospital Medical College, New York, in 1876.

"On hearing the story of Capt. Thomas F. Barry, who, while on a whaling expedition in Repulse Bay, in 1871-1873, was visited by Eskimos who described strangers that had traveled through that region several years before and who had buried papers in a cavern, where silver spoons and other relics had been found, Lieutenant Schwatka determined to search for traces of Sir John Franklin's party, and, obtaining leave of absence, fitted out an expedition on the 19th of June, 1878, and accompanied by William H. Gilder as second lieutenant in command, he sailed in the *Eothen* for King Williams Land. The party returned on the 22d of September, 1880, having discovered and buried many of the skeletons of Sir John Franklin's party, and removed much of the mystery of his fate. Lieutenant Schwatka found the grave of Lieut. John Irving, third officer of the *Terror*, and, in addition to many interesting relics, a paper, which was a copy of the Crozier record that was found in 1859 by Lieut. William R. Hobson, of Sir Leopold McClintock's expedition, and which contained two records, the latter, under date of 25th of April, 1848, stating the death of Sir John Franklin on the 7th of June, 1847.

"The expedition was also marked by the longest sledge journey on record—3,251 statute miles—during which a branch of Backs River was discovered, which Lieutenant Schwatka named for President Hayes. Afterwards he explored the course of the Yukon River in Alaska, and rejoined his regiment in July, 1884. In August of that year he resigned the commission of first lieutenant, Third Cavalry, to which he had been appointed in March, 1879.

"He commanded the New York Times Alaskan exploring expedition in 1886.

"Lieutenant Schwatka has received the Roquette Arctic medal from the Geographical Society of Paris, and a medal from the Imperial Geographical Society of Russia, and is an honorary member of the geographical societies of Bremen, Geneva, and Rome. He is the author of *Along Alaska's Great River* (New York, 1885); *Nimrod in the North* (1885), and *The Children of the Cold* (1886). See *Schwatka's Search*, by Col. William H. Gilder (New York, 1881); *The Franklin Search under Lieutenant Schwatka* (Edinburgh and London, 1881), and *Als Eskimo unter den Eskimo*, by Henry Klutschak (Leipsic 1881)."

Lieutenant Schwatka died about three years ago at Portland, Oreg., leaving the claimant (his widow) and one child wholly dependent on Mrs. Schwatka's father for support. Since then her father has deceased, and she is left without any means whatever for the support of herself and child. This fully appears by affidavits on file with your committee.

In view of all the circumstances, your committee report back the bill, recommending its passage.

JACOB TAYLOR.

FEBRUARY 21, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. TRACEY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 713.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 713) for the relief of Jacob Taylor, beg leave to report as follows:

The testimony submitted shows that Jacob Taylor enlisted in Company D of the Forty-first Illinois Volunteers on the 17th day of June, 1862, and served faithfully in said company and regiment until the 12th day of March, 1863, when he learned that he had not been properly mustered into the service, and an arrangement of some sort was made by which he was transferred to Company K of the First Missouri Cavalry Volunteers. This transfer occurred in March, 1863, and he served with said company and rendered faithful service as a soldier with said company and regiment until February 28, 1864, without clothing, pay, or rations furnished by the United States. What clothing he received was furnished by the officers of said company and his rations were furnished by the private soldiers.

When the regiment, the First Missouri Cavalry, reorganized as a veteran regiment, he, the said Jacob Taylor, offered to enlist as a soldier in the veteran regiment, but was refused because, as he was informed, he had not been regularly enlisted and mustered into Company K of said regiment, the First Missouri Cavalry Volunteers. He made every effort in his power to be properly mustered into the service, and in June, 1863, went with a comrade to a mustering officer at Memphis, Tenn., and made application to be mustered into the service, but was refused by the officer for the reason alleged—that he had no blanks. Subsequently, about June 19, 1863, he was captured and paroled and sent to Benton Barracks, Mo., where he ascertained that his name was not borne on the company rolls, and the officers advised him to go home, which he did.

These facts are testified to by Homer Quick, who was captain of Company K, First Missouri Cavalry Volunteers; by Abram Harrison, a sergeant in said company, and who accompanied him to the mustering officer at Memphis; by John Smith, a private in said company; by William Morris, a private in said company; by Thomas Whitnock, a private in said company, and by F. W. Hodges, first lieutenant of said company.

The facts are further corroborated by the action of the War Department in amending his service record to show him in service to May 12, 1863, as a member of Company D, Forty-first Illinois Volunteers.

In view of these facts, which do not appear to be denied or disputed, your committee beg to report the bill favorably and recommend that it do pass, with the following amendment:

Insert between the words "cavalry" and "and," in the fifth line, the words "from April first, eighteen hundred and sixty-three."

CASE 1111

The following is a summary of the case history of a patient who has been under the care of the physician for the past several years. The patient is a 45-year-old male, who has been suffering from a chronic condition since the age of 20. The condition is characterized by recurrent episodes of severe pain, which are often accompanied by nausea and vomiting. The pain is most severe in the lower back and hip area, and is often described as a sharp, stabbing pain. The patient has tried many different treatments, including physical therapy, painkillers, and surgery, but none have been successful in providing long-term relief. The patient is currently on a regimen of painkillers, which he takes on a daily basis. He is also taking a low-dose antidepressant, which has helped to reduce the frequency of the pain episodes. The patient is a very hardworking man, and he is very concerned about his condition, as it has prevented him from doing his job for the past several years. He is very grateful for the care he has received from the physician, and he is looking forward to continuing his treatment.

JAMES MCGOWAN.

FEBRUARY 21, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. TRACEY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 3524.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 3524) for the relief of James McGowan, beg leave to report:

It is shown by the records that James McGowan, aged 19 years, was enrolled February 21 and mustered into service February 23, 1865, to serve one year. He was forwarded March 2, 1865, to the Sixty-first New York Volunteers, but his name was not taken up on the rolls of either company of that regiment. He was transferred upon some date, not shown on the record, to Company F, Eighty-second Ohio Infantry. It appears that he served faithfully with said company until July 6, 1865. On this latter date he is reported as a deserter.

In application to the War Department for the removal of the charge of desertion he stated that the command was encamped at Louisville, Ky., at the time and was ordered to Cincinnati, Ohio, to be mustered out; that in going to Cincinnati they would pass by his home at Madison, Ind., and that he, being sick at the time from a severe attack of diarrhea, went home to recuperate, with the intention of rejoining the regiment to be mustered out. Upon arrival at home he was compelled to go to bed and was unable to leave the same until long after the regiment had been mustered out. In going home he only had in view the obtaining relief which he could not obtain had he remained with the command.

Your committee also makes note of the historic fact that at the time the soldier is charged with desertion the war had ended and hostilities had ceased, which is an additional and very strong testimony corroborating the soldier's statement.

He is further corroborated by the statement of his sister, Anna McGowan, who testified, on the 28th day of November, 1892, that upon his return home her brother James was suffering from bowel troubles, and that two physicians (both of them since dead) were called to attend him; that he was confined to his bed, and was at no time able to rejoin his regiment until after July 24, 1865.

His brother, Thomas McGowan, testified to the same effect November 29, 1892.

J. B. Baldwin, a sergeant in the soldier's company, testified that he knew that he was sick in May or June, 1865.

Maggie Dixon, a neighbor, testified, March 13, 1893, that she had known the soldier for thirty years and knew that he was sick when he

arrived home, and was prevented from rejoining his regiment by reason of such sickness.

A. J. Grayson, who was first lieutenant of Company D, Sixth Indiana Infantry, testified, February 4, 1895, that he had known McGowan since he was a child, and that he had never been in good health since he came home from the Army. That he and his sister live near him and have done so for twenty-five years, and that he knows from personal knowledge that he has not been a well man during that time. That he had been and was at that time a mere shadow, looking so weak and bad that he had been repeatedly refused work because it was apparent that he could not do it.

His enfeebled condition is further testified to by other witnesses, and your committee believe, from the evidence presented, that the soldier did not intend to desert his company and regiment at the time he left them and went home; that he went home to obtain relief and was prevented by sickness from rejoining his command to be mustered out.

Because of these facts, which appear to your committee to be sufficiently proven, and the additional fact that hostilities had ceased before the 6th day of July, the day upon which the soldier is charged with desertion, your committee recommend that the accompanying bill do pass.



EDWARD H. MUNSON.

FEBRUARY 21, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. TRACEY, from the Committee on Military Affairs, submitted the following

R E P O R T :

[To accompany H. R. 4199.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 4199) for the relief of Edward H. Munson, beg leave to report:

There appear to be some discrepancies between the records of the War Department and the testimony submitted, as follows: The records of the War Department show that Edward H. Munson was aged 20 years at the date he was enrolled as a private of Company H, Thirty-second New York Infantry, while the soldier claims he was but 16 years of age, and this is corroborated by the testimony of Thomas Ash, who knew him at the time of his enlistment, and who says he was a mere schoolboy about 16 years of age; that he enlisted without the knowledge and consent of his parents, and came home one day in the uniform of his regiment and told his people that he had enlisted for nine months; by Jane Ryder, who lived a neighbor and knew the family intimately, and who says that at the time of his enlistment he was about 16 years of age and a mere schoolboy, and by a photograph taken about the time of his enlistment and which gives him a very youthful appearance.

It is shown by the record that Munson rendered faithful service as a soldier from the time of his enlistment until the 28th of May, 1863, when the term of service of the Thirty-second New York Infantry expired and the regiment was mustered out, and the remnant, apparently consisting of the recruits, was consolidated with the One hundred and twenty-first New York Infantry and Munson was assigned to Company D of said regiment. Against this assignment Munson vigorously protested at the time, claiming that he had been enlisted only for the unexpired term of service of the Thirty-second New York Infantry, a period of nine months.

The report of his desertion is shown by the records on June 5, 28, and 29, 1863, but it is held by the War Department that the true date is May 28, the date of his transfer to the One hundred and twenty-first New York Infantry.

Munson testifies that he accompanied his command on the march to Gettysburg, but became separated therefrom and fell in with a Vermont regiment and participated in the battle, but of this there is no other proof.

The facts which appear to be fairly well established by the testimony presented are:

(1) That Patrick Stanley, first lieutenant of Company K, Thirty-second New York Infantry, and William Evans, second sergeant of

Company H, Thirty-second New York Infantry, were detailed by Colonel Matterson and given a furlough to go home as recruiting officers to enlist men to fill up the regiment. This is testified to by Alfred Lawrence, who was first lieutenant of Company H, Thirty-second New York Infantry, the company to which Munson belonged.

(2) That these recruiting officers represented that they were enlisting men for the unexpired term of the regiment, which was a two years' organization, and at the time of Munson's enlistment had about nine months to serve.

(3) That the boy, Munson, signed all the papers presented to him and as directed by the recruiting officers without reading them.

(4) That Munson immediately after his enlistment declared to his parents and to a number of others that he had enlisted for nine months.

(5) That he was a good and faithful soldier from the time of his enlistment until the expiration of term of service of the Thirty-second New York Infantry.

The father of the boy makes a statement which, although not sworn to, is strongly corroborated, that his boy enlisted for the unexpired term of the regiment, and that he was so told by the recruiting officer, Patrick Stanley, on the day of the enlistment.

Aletha A. Munson testifies to the same facts.

Edward O. Jones testified to his acquaintance with the boy, to his enlistment, and says he verily believes that Edward H. Munson was deceived by the enlisting officer as to his term of enlistment. The affiant was captain of Company H, Thirty-second New York Infantry, to which company Munson belonged, and Alfred Lawrence, first lieutenant of same company, testified to his personal knowledge of the truth of the captain's statements. Both testify to the faithful and reliable service of the soldier during his service with the Thirty-second, and that he earnestly protested against being transferred to the One hundred and twenty-first New York Infantry on the ground that his term of enlistment had expired.

Lieutenant Lawrence further testifies that in conversation with General Sedgwick, the General said that Munson and others should be discharged with the regiment, as they had been deceived and would not make good soldiers; that the said Edward H. Munson was a good and faithful soldier during the time he was a member of Company H, Thirty-second New York Infantry; that he served until about the 1st of June, 1863, when he was transferred to the One hundred and twenty-first New York Infantry, and that on the 13th day of June Company H and the whole Thirty-second Regiment was mustered out of service in the city of New York.

It is extremely probable that the boy gave his age to the recruiting officer as 20 in order that he might be accepted, as a large number of boys of extreme youth are known to have done.

A careful consideration of all the testimony leads to the conclusion that the boy was deceived as to his term of enlistment and fully believed that he had enlisted for the unexpired term of nine months of the Thirty-second Regiment New York Infantry.

In view of all the facts, his faithful service during the term for which he believed he had enlisted, and his extreme youth at the time, your committee report favorably and recommend that the bill do pass.

JULIUS A. KAISER.

FEBRUARY 24, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ROBINSON, from the Committee on Naval Affairs, submitted the following

REPORT:

[To accompany H. R. 1897.]

The Committee on Naval Affairs, to whom was referred the bill (H. R. 1897) for the relief of Julius A. Kaiser, submit the following report:

Similar bills with this one have heretofore been considered by the Committee on Naval Affairs of the House and Senate during the Forty-eighth, Forty-ninth, Fifty-first, and Fifty-second Congresses, and the facts and conclusions thereon then fully ascertained and reported to both Houses.

Your committee, after fully considering the whole case, ask leave to adopt the report submitted by them in the Fifty-second Congress, and again recommend the passage of the bill.

[House Report No. 2346, Fifty-second Congress, second session.]

The Committee on Naval Affairs, to whom was referred the bills (H. R. 1303 and H. R. 5697) for the relief of Julius A. Kaiser, submit the following report:

The facts out of which this bill for relief arise will be found stated in House Report No. 534, Forty-eighth Congress, a copy of which is hereto appended as a part of this report. Your committee concur in the conclusions stated in these reports and report back the bill (H. R. 1303) and recommend its passage, and ask that H. R. 5697 of similar import be laid on the table.

[House Report No. 534, Forty-eighth Congress, first session.]

The Committee on Naval Affairs, to whom was referred the bill (H. R. 1348) for the relief of Julius A. Kaiser, having had the same under consideration, beg leave to submit the following report:

Julius A. Kaiser is now an assistant engineer on the retired list of the Navy, having been retired on the 8th day of July, 1873, for disability incident to the service. It appears that the injury by which he was incapacitated for active service was a compound fracture of the forearm, received on January 1, 1870, while making some repairs to the machinery of the United States steamer *Ashuelot*. Although injured on January 1, 1870, he was not ordered before the retiring board until July, 1873, a period of three and one-half years, during all of which time he continued on duty on the Asiatic station.

Long before the time of his retirement he had completed the sea service required by regulation of the Navy Department to entitle him to promotion, but by reason of his absence in the Asiatic station, and for other causes not involving fault on his part, he was not examined for promotion.

Had he been so examined for promotion he would, under section 1562, Revised Statutes, have been entitled to the pay of an assistant engineer from the date of completion of the sea service required by the regulations of the Navy Department.

He completed the sea service on the 19th day of January, 1870, and was consequently entitled to the pay of a passed assistant engineer from that date, but for the fact that his absence on duty prevented his examination.

It appears that the other officers of his date, while not actually promoted until 1874, were given rank and pay under the section above referred to from the time they became entitled—one from the 19th of October, 1889, the other from the 31st of March, 1870.

Mr. Kaiser's record in the service is exceptionally good. He graduated first in his class at Annapolis, and served with distinction throughout the war, having much service on the monitors, which was justly considered the most arduous character of service.

It seems to your committee that Mr. Kaiser is entitled to be put in the position which his actual service entitled him at the time of his retirement, and of which only the requirements of the service, and no fault of his own, deprived him, viz, to be promoted to passed assistant engineer from the date from which he was entitled by law and regulation to the rank and pay of that position.

Your committee therefore recommend the adoption of this report and the passage of the bill as amended.

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JOHN B. BESLER.

FEBRUARY 24, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. TARSNEY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 5258.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 5258) for the relief of John B. Besler, having considered the same, respectfully report:

The committee have examined the evidence presented with this case, and on the showing made consider the claimant entitled to the relief asked for under the provisions of this bill.

The affidavit of Capt. F. A. Pratt, printed herewith as a part of this report and fully corroborated and sustained by numerous other affidavits and statements of this soldier's officers and comrades, conclusively shows that the action of the court-martial by which the soldier was submitted to a cruel and unusual punishment was erroneous and unjust, not founded upon fact, and when imposed upon an innocent man, as in this case, to satisfy the malice of an ignorant officer, can only be properly characterized as inhuman and barbarous. We believe that relief can not be granted to this unfortunate and deserving man with sufficient speed.

The committee recommend that the bill do pass.

Hon. N. D. SPERRY,
House of Representatives, Washington, D. C.

DEAR SIR: In the case of John B. Besler, of New Haven, Conn., who in the civil war was a private in M company, First Regiment Connecticut Heavy Artillery, and dishonorably discharged, and who now asks that the records be changed and that he may have an honorable discharge, for your information and those who are to have the consideration of the matter, I respectfully submit the following:

At the breaking out of the war John B. Besler was an industrious young mechanic, of good habits and reputation, living in New Haven, Conn., where he had been working for several years in carriage factories. During the winter of 1861-62, with several of his companions and fellow-workmen, he enlisted in Company M, First Regiment Connecticut Artillery. In the spring of 1862 this regiment went to Yorktown and had charge of the siege train there. The work was day and night, in rain and mud, and of the hardest kind. The record shows more heavy ordnance and ammunition moved and put in position than had ever been before done in the same length of time.

At some period during this time Besler, who had up to that date been a most willing and excellent soldier, made complaint of lameness in back and legs as resulting from the work and exposure. The surgeon declined to believe him or excuse him, and returned him for duty in his company, where he was favored somewhat and put on light duty, which, I am informed by the then first sergeant, he appeared to do

cheerfully and as well as able. He was very soldierly in appearance, keeping his uniform and equipments in the best of order, so much so that for that reason he would be selected from the new guard as the orderly for the day for the colonel commanding or the adjutant nearly every time he was on the guard detail. This I know from the fact that I was at that time the regimental adjutant. He came on as a member of the guard very frequently. This, I learned, was because men of his company would, by permission of his first sergeant, exchange their place in the guard detail for his place on the working detail, they believing he was not able to work. As his trouble became more acute, he again went to the surgeon, who again refused to believe him; told him there was nothing the matter with him, that he was "playing off." This Besler resented in strong language, not politic or proper from a subordinate, but natural under the circumstances from one who had any pride or manhood. The surgeon ordered him to duty and to be punished, and an antagonism was here established. Besler continued to do light work in his company.

Arriving at Harrisons Landing, he was again before the surgeon, with no better result. In October, 1862, I was appointed captain of M company, and took command at Fort Ward, Va. Besler was with the company, apparently not able to do duty, but not excused by the surgeon. I then heard his statement, made investigations, and, believing him, made his duties as light as possible. In December, 1862, M company was detached from the regiment and sent to Fredericksburg for special service. Besler was left at regimental hospital near Fort Ward, and was never again with his company. The surgeon was a cold, unsympathetic man of tenacious opinions, likely to be intensified by opposition, no doubt honest in believing Besler was deceiving, but undoubtedly wrong and strongly prejudiced in the case. The troubles Besler complains of, as I know from my own experience, can be very severe and yet so obscure that a doctor can not determine them without taking the statement of the sufferer. During the winter and spring of 1862 and 1863 the surgeon treated Besler at the regimental hospital with great severity, and finding that he would not admit that he was well and able to return to duty, had charges preferred against him of feigning sickness for the purpose of getting out of service. In such a case there could be but little evidence before the court-martial on the part of Besler. The surgeon's opinion was accepted. The sentence of the court-martial was that Besler be dishonorably discharged and drummed out of the service with loss of all pay.

After the sentence and before its execution comrades in his regiment, believing him wronged, contributed some \$60, offered to get him citizen's clothing and a pass that he might leave and escape the indignity of the execution of the sentence. He replied that he would remain and suffer the sentence; that they might falsely charge that he had played off, but should never truthfully say he deserted. Urged to take the money after being drummed out and to see what he could do to get righted in Washington, he did so, remaining some days in Washington. He secured an interview with Secretary Stanton, who rescinded the order stopping the pay and suggested that Besler have some one take hold to set the matter right; that he (Stanton) had no time to investigate it. Not knowing how to proceed further in the matter, Besler returned to New Haven. He continued to be lame and suffer in health as in the Army; has never been able to resume his old occupation as carriage maker, although has tried for a few days at a time, only to find that he was not able. He has occupied himself more or less in light occupations, securing a fair living, remains a good citizen of good habits, has the respect and sympathy of his old comrades in the company and regiment, many of them living in New Haven, men who worked with him before the war, when he was able and well, and who contrast his condition since his discharge, a clear and convincing object lesson that doctors do make mistakes.

My home is in St. Louis. I have not seen Besler for nearly thirty years until about ten days ago. I then went to New Haven with the purpose of seeing him and investigating. I made it my duty to see of his old comrades, members of M company, men in good positions who were as members of Company M, and now reliable men. Not one did I find that was not strongly in sympathy with Besler and the belief that he had been greatly wronged by the court-martial. I could not learn there was a member of the regiment living in New Haven that did not believe this. The record of the First Connecticut Heavy Artillery, the first three years' regiment (then the fourth volunteer company) mustered in the war, is not such as to credit the belief that any considerable number could have been found then or now of its members who would give aid or sympathy to cowards or shirks.

The investigation confirms most fully my conviction that this man has been greatly wronged. That in addition to suffering in health from harsh treatment and disgraceful humiliation in his regiment and before his comrades in the field, he has ever since and still stands before the world, before his comrades, before his children, with the record of a shameful and disgraceful discharge as his war record. To in part undo this wrong, the record can not be changed too quickly. Justice to Besler demands this if he has been wronged, and certainly our Government can not wish to continue a wrong committed by mistake. That this has not been before brought to

the attention of proper authorities is by reason of Besler's not knowing how to proceed. If I can be of any further assistance in this matter, you will oblige me by giving me the opportunity.

Very respectfully,

F. A. PRATT,
Late Captain M Company, First Connecticut Heavy Artillery.

DISTRICT OF COLUMBIA, *City of Washington:*

Sworn to and subscribed before me this 17th day of February, 1896.

[SEAL.]

JOHN H. ROGERS,
Notary Public, District of Columbia.

WASHINGTON, *February 17, 1896.*

I have known Captain Pratt for many years as a gentleman of excellent character and fine military record.

J. R. HAWLEY.

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DAVID S. GORDON.

FEBRUARY 24, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. TARSNEY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 1567.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 1567) for the relief of David S. Gordon, submit the following report:

Col. David Stewart Gordon is the colonel of the Sixth United States Cavalry Regiment and the present commander of Fort Myer. He was born near Greencastle, Franklin County, Pa., May 23, 1832. He was educated in public schools of his native county.

In 1857 he moved to Leavenworth, Kans., and at the breaking out of the late war was engaged in business in said city. When it became evident that the South would rebel against the United States Government and that the capital of the nation needed protection he hurried on to Washington City, entered the ranks of a company organized for the defense of the capital and the protection of President Abraham Lincoln by Senator James H. Lane, of Kansas, known as the Frontier Guard, and was elected first sergeant. The company numbered about 150 men. As first sergeant of said company he was assigned to duty in the Executive Mansion, for the protection of the White House and President Lincoln.

The company was quartered in the East Room, the most luxurious quarters which the American soldier ever enjoyed. Of this famous organization a recent writer in the *Century* for April, 1888, says:

These men came forward to shoulder a musket without enlistment, commission, paymaster, or commissariat, and the time the danger had become so threatening that any scrap or show of military force was welcome and useful in the city of Washington.

His discharge from said organization is dated "East Room, Executive Mansion, Washington, D. C., April 10, 1861," and so far as known is the only officer in the Army who served in said organization.

Following is a copy of orders mustering out said company, and Sergeant Gordon's discharge.

UNITED STATES OF AMERICA.

HEADQUARTERS FRONTIER GUARD,
Washington City, April 27, 1861.

SIR: In consequence of the arrival of large numbers of troops in this city I am satisfied the emergency has ceased that called our company into service.

If you concur in this opinion I should be pleased to receive authority from you to disband said company and to honorably discharge the members thereof from the service.

Very truly,

J. H. LANE, *Captain Commanding.*

Hon. S. CAMERON, *Secretary of War.*

WAR DEPARTMENT, *April 27, 1861.*

SIR: In reply to your letter of this day's date, stating that, in consequence of the arrival of large numbers of troops in this city, the emergency has ceased which called the company commanded by you into service, and that you would be pleased therefore to have authority to disband your company and have an honorable discharge from service for it.

Concurring fully with you, I readily grant you the authority asked for, and in doing so, I beg to extend to you, and through you to the men under your command the assurance of my high appreciation of the very prompt and patriotic manner in which your company was organized for the defense of the capital, and the very efficient services rendered by it during the time of its existence.

Very respectfully,

SIMON CAMERON.

Gen. JAMES H. LANE.

Cheerfully approved.

A. LINCOLN.

By authority vested in me as captain of the Frontier Guard, I, James H. Lane, do hereby certify that David S. Gordon, first sergeant of said company, served his country in defense of the national capital at a time of great peril, when threatened by hordes of traitors, said service commencing on the 18th of April, 1861, and ending on the date hereof

I also, by virtue of said authority, do hereby honorably discharge the said David S. Gordon from the service of the United States.

Given under my hand at the East Room of the Executive Mansion at Washington City this 3d day of May, 1861.

J. H. LANE, *Captain.*

Attest:

Q. B. STOCKTON, *Second Lieutenant.*

M. W. DELAHAY, *First Lieutenant.*

On April 26, 1861, he received his commission as second lieutenant Second Dragoons, and reported for duty with Troop B, Second Cavalry, at Rucker Barracks, Washington, D. C. His captain, Charles Field, late Doorkeeper of the House of Representatives, shortly afterwards tendered his resignation and went South, and the young lieutenant succeeded to the command of the troop until the arrival of First Lieut. C. H. Tompkins, now General Tompkins, Quartermaster's Department, retired. The duties of his command consisted of drill and guarding public buildings in Washington, until the commencement of actual field service, when his company, with another troop, were ordered on the south side to destroy the Leesburg and Alexandria bridges, etc., which was effectually accomplished, and, in addition, the troop captured a passenger train containing quite a number of young Confederate soldiers. On the 31st of May his company was ordered to reconnoiter the vicinity of Fairfax Court-House to ascertain the character and strength of the opposing force and the whereabouts of a notorious politician by the name of "Extra Billy Smith," ex-Member of Congress of that district. The little command, under Lieutenants Tompkins and Gordon, met the Confederate pickets about 2 miles from Fairfax Court-House, charged into the streets of the town, exchanging shots at every jump with the enemy, who occupied almost every building, until they met Captain Marr's Warrenton Rifles and the "Black Horse Cavalry," which was also routed.

The Confederate troops were driven in the utmost confusion on the old Centerville road and Captain Marr was killed. Lieutenants Tompkins and Gordon both had their horses shot under them, dropping Gordon in a pile of agricultural implements, knocking out two teeth.

In the official report of this skirmish, which is really credited as having been the first pitched battle between the Confederates and our

troops of the late rebellion, Colonel Gordon was honorably mentioned for valuable and efficient service rendered. A few days after this skirmish Colonel Gordon was ordered to report to Gen. E. D. Keyes, United States Army, as aid-de-camp. This brigade formed a part of Tyler's division.

After performing routine duties for a few weeks, his brigade participated in a skirmish on the 18th of July, and also in the battle of Bull Run, July 21, 1861. On this occasion Gordon again had his horse killed under him, which led to his capture, and he spent thirteen months in the bastiles of the South.

Among his fellow-prisoners were Generals Wilcox, Cochran, Vodges, and others. The following is an extract from General Keyes's official report, in which he mentioned him as follows:

Lientenant Gordon, Second Dragoons, my aid, was with me throughout the entire day, and rendered gallant and efficient aid, and I saw him for the last time 2 miles this side of Bull Run, upon the retreat, and I trust he may yet be found.

After his exchange he reported to the Adjutant-General in Washington, and was granted ten days' leave to visit his family, at the expiration of which he was ordered to Annapolis, Md., as inspector of the parole camp, which duty he performed for several months, but, preferring active field service, he rejoined his regiment and participated in the battle of Fredericksburg.

From this time on he served with his regiment during the entire war, and was engaged in many bloody conflicts. For the Gettysburg campaign he was brevetted major for gallant and meritorious service.

At the close of the war his regiment was ordered to Fort Leavenworth, Kans., and reported to General Dodge, United States Volunteers, for duty, and, although only a captain, he had the pleasure of commanding it off and on for two years during the rebellion. In October, 1866, his troop, D, Second Cavalry, was ordered to Fort Lyons, Colo. From thence his command went to Fort Laramie, Wyo., and immediately after the massacre of Lieutenant Fetterman, was ordered to Fort Phil Kearny, where his troop remained until 1868, since which time he has served at Fort D. A. Russell, Forts Stambough, Bridger, Douglas, Steele, Sanders, Custer, Ellis, and many other noted frontier posts. In 1877 he received his promotion as major of the Second Cavalry, and was ordered with it to Omaha during the riots there in 1877.

It is safe to assert that there is scarcely a stream of water on the east slope of the Rockies, from the Arkansas River to the forty-ninth parallel, that he has not camped on while fighting the various tribes of Indians, protecting the settlers, and performing escort duty from Mexico to the British line. No officer has a better record (few as good) or greater reason to be proud of his frontier service. The following extract from a letter written to Colonel Gordon by Maj. Gen. J. E. Smith, dated March 3, 1886, will show how his services were appreciated by his superior officers:

I refer briefly to the trials and privations endured at military posts only twenty years ago, when our only surroundings were hostile Indians and howling wolves. You doubtless remember that the garrison at Fort Phil Kearney was actually in a state of seige, having the terrible massacre of December, 1866, before them, they dared not to show themselves outside the stockade. The few families there suffered all the torture of mental agony. I was much indebted to you for your assistance in restoring confidence to the beleaguered garrison by your example and energy. If some cavalry officers whom you may remember, now claiming high honors, had been imbued with your spirit and energy, many of the disasters on the road would have been averted.

Colonel Gordon was again on February 27, 1890, brevetted lieutenant-

colonel for gallant services in action against Indians at Miners Delight, Wyo., March 4, 1870.

In 1884, while in command of Fort Ellis, Mont., his regiment was transferred to the Pacific Coast, and has since served at Fort Walla Walla, Presidio, and Arizona.

One of the most remarkable if not unprecedented incidents in the military career of Colonel Gordon is his promotions and thirty-two years' continuous and active service in the same regiment, the Second United States Cavalry. On 26th of April, 1861, he was appointed second lieutenant; on August 3, 1861, first lieutenant; on April 25, 1863, captain; June 25, 1877, major, and on November 20, 1889, lieutenant-colonel.

On 28th of July, 1892, he was promoted to colonel and placed in command of the Sixth United States Cavalry and has been on duty with it ever since, participating in putting down the Chicago riots in 1894.

After thirty-five years of hard, continuous, and dangerous service (including the war of the rebellion), twenty-nine years of which was spent on the frontier without an eastern detail, he will, by operation of existing law, be placed on the retired list May 23, 1896.

That this gallant and faithful officer has well earned the promotion (one grade) the bill gives him can not be questioned. Your committee therefore report the bill back to the House and recommend the passage of the same.

Your committee attach to their report a statement of the military service of Colonel Gordon, and ask that it be printed as an appendix to the report.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, February 1, 1896.

Statement of the military service of David S. Gordon, of the United States Army, compiled from the records of this office.

Second lieutenant, Second Dragoons, April 26, 1861; first lieutenant, June 1, 1861 (Second Cavalry, August 3, 1861); captain, April 25, 1863; major, June 25, 1877; lieutenant-colonel Second Cavalry, November 20, 1889; colonel Sixth Cavalry, July 28, 1892.

Brevet major, July 3, 1863, for gallant and meritorious services in the Gettysburg campaign, and lieutenant-colonel, February 27, 1890, for gallant services in action against Indians at Miners Delight, Wyo., March 4, 1870.

SERVICE.

Frontier Guard, as the record herein appended will show:

He joined his regiment May 13, 1861, and served with it at Washington, D. C., to July 4, 1861; aide-de-camp to General Keyes until taken prisoner at the battle of Bull Run, Virginia, July 21, 1861. Prisoner of war to August, 1862, and on parole until exchanged September 30, 1862.

He rejoined his regiment October 21, 1862, and served with it in the Army of the Potomac to December 28, 1862, being engaged in the battle of Fredericksburg, Va.; on leave December 28, 1862, to January 23, 1863; on duty at Headquarters Middle Department, Baltimore, Md., to July 5, 1863; with regiment in the Army of the Potomac to August 9, 1864, being engaged in the following actions: Brandy Station, Va., August 1 to 4, 1863; Rappahannock Station, August 5, 1863; Culpeper and Muddy Run, November 8, 1863; Mine Run campaign, November 26 to December 2, 1863; the Wilderness, May 5 to 7, 1864; Todd's Tavern, May 7 and 8, 1864; Sheridan's expedition from Todd's Tavern, May 9 to 12, 1864; Yellow Tavern, May 11, 1864; Meadow Bridge, May 12, 1864; Haw's Shop, May 27 and 28, 1864; Old Church, May 30, 1864; Cold Harbor, May 31 and June 1, 1864; Trevillian Station, June 11 to 13, 1864, and Deep Bottom, July 27-29, 1864.

On sick leave August 9 to September 29, 1864; on mustering and disbursing duty and on recruiting service to January, 1865.

With regiment in the Shenandoah Valley and in Maryland to October, 1865; on frontier duty in Colorado and Kansas to October, 1866, and in Dakota to July 10,

1868, having been engaged in action with the hostile Sioux Indians near Fort Phil Kearney, Dak., June 12 and 18, 1867, and Shell Creek, Dakota, October 26 and November 29, 1867.

On leave July 10 to October 27, 1868; with regiment on frontier duty in Wyoming and Utah to June 14, 1876, being engaged with Indians at Popoagie, Wyoming, September 14, 1869, and at Miners Delight, Wyo., May 4, 1870; on leave June 14 to August 19, 1876; on recruiting service to January 22, 1877; with regiment in Wyoming to July 26, 1877; in Montana (on Bannack expedition, August 31 to September 23, 1877, and in the campaign against the Sioux Indians, June 26 to August 31, 1879) to August 23, 1880, having been engaged in actions with hostile Indians at Milk River, Montana, July 17, 1879, and near Poplar Creek, Montana, August 14, 1879; on detached duty at St. Paul, Minn., August 23 to November 26, 1880; on leave to May 5, 1881; member of board inspecting horses to September 1, 1881; commanding Fort Ellis, Mont., to June 3, 1884; with regiment en route to and at Presidio of San Francisco, Cal., to June 19, 1886; commanding Fort Bidwell, Cal. (on sick and ordinary leave October 10, 1888, to April 10, 1889), to May 22, 1890; Fort Huachuca, Ariz., to August 25, 1892; commanding regiment and post of Fort Niobrara, Nebr., October 5, 1892, to July 8, 1894.

Commanding cavalry forces in the Chicago labor strikes to August 4, 1894, and at Evanston and Fort Sheridan, Ill., to October 1, 1894, and since that date commanding his regiment and post of Fort Myer, Va.

GEO. D. RUGGLES, *Adjutant General.*



DAVID S. GORDON.

FEBRUARY 27, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PARKER, from the Committee on Military Affairs, submitted the following as the

VIEWS OF THE MINORITY:

[To accompany H. R. 1567.]

A minority of the Committee on Military Affairs, to whom was referred the bill (H. R. 1567) entitled "A bill for the relief of David S. Gordon," submit the following report, giving some of the reasons why they can not concur in the views of the majority or recommend the passage of this bill.

This is a bill for the relief of Col. David S. Gordon, colonel of cavalry. On account of his gallant services beginning as a veteran in the civil war and from the fact that he is soon to be retired by age, it is proposed by the bill that he should be retired as a brigadier-general.

We have nothing but praise for Colonel Gordon, and admiration for his record. But when we consider the great number of gallant and deserving officers now in the Army who have served during the civil war, the small rank to which many of them have attained, the difficulty, and indeed the impossibility of making a proper comparison between the character of their services and the ungracious nature of such a comparison if it could be made, as well as the dangers to the service of all special legislation of this class, we can not concur in the recommendation of the majority.

Some of the committee, in view of the strong claims that these veteran officers have on the gratitude of the nation, recommend a substitute in the form of a general bill as hereto annexed, providing that retired veterans shall have the rank and retired pay of the rank next above that last held in active service.

This course, however, involves an expense to the Government that others of the committee are not now willing to advise.

The original bill introduced has had the effect of calling our attention to the large number of officers, both retired and active, who served during the civil war, many of whom were taken into the Regular Army from the volunteers, because of their gallantry and merits. The record of the service of Colonel Gordon, produced from the War Department, shows the arduous character of the service, which has no doubt been performed by many. To obtain like detailed records as to each of these officers would be absolutely impossible. It suffices to say that of the 71 colonels, appearing in the Army Register (page 266), only one, a staff officer, did not serve in the war. The same is true of the 91 lieutenant-colonels. Of the 209 majors, 150 served in the civil war, including all officers of the line except one each in cavalry and infantry, the other

exceptions being staff appointments. There are 29 veteran captains in the staff, 32 in the 10 regiments of cavalry, 36 in the 5 regiments of artillery, and 127 in the 25 regiments of infantry, all of whom likewise served in the war. No less than 11 war veterans are still first lieutenants in the artillery and 4 in the infantry. Of the higher grades, about half were volunteers in the war. Of the captains and lieutenants, almost all were taken for their merit from the volunteer regiments of the Army, the few exceptions being in the artillery, where the promotion appears to have been slower than in the other branches.

It is impossible to think without emotion that veterans of the war, after forty years' service, should be still captains, or lieutenants, who, after years of danger and hardship, constant devotion to the service of their country, and many of them with honorable wounds, should be retired for age at the small pay that is received by retired officers of that grade. We must presume that such retirement will soon take place in all these cases. No man could have been of age for service during the civil war, which began thirty-five years ago, without being now of an age which would render his retirement compulsory within the next few years.

If general legislation, as suggested by some of us, be adopted, it would make no immediate change in the amount to be appropriated for retired officers' pay so far as regards officers still in active service. But it would make a change when they shall be retired.

The active and retired pay per month is as follows:

[Army Register, p. 344.]

Pank.	Active.	Retired.
Colonel	\$375. 00	\$281. 25
Lieutenant-colonel	333. 33	250. 00
Major	291. 67	218. 75
Captain, mounted	233. 33	175. 00
Captain, not mounted	210. 00	157. 50
First lieutenant, mounted	186. 67	140. 00
First lieutenant, not mounted	175. 00	131. 25
Second lieutenant, mounted	175. 00	131. 25
Second lieutenant, not mounted	163. 33	122. 50
Chaplain	175. 00	157. 50

It will be seen that retired officers receive three-fourths of their active pay, but without the allowances that they receive in the service. If such substitute should be adopted they would receive on an average about seven-eighths of their last active pay, and the retirement of all officers who served in the late war is likely to take place within the next ten or fifteen years.

Among such a large number of officers, many promoted from the Volunteer Army, it would be probably invidious, and certainly impossible, to make any distinction as the quality of their services. All have done their duty as it has fallen to their lot. Those who have been in the regiments which have been the most active in service have likewise had the most active promotion, as the men who are unable to stand hardship have fallen out and retired.

The indisposition of Congress to legislate specially in this class of cases is shown by the fact (Army Register, p. 243) that the only officers now appearing in the list who were retired by special acts of Congress, embrace 2 brigadier-generals, 3 colonels, 3 majors, 7 captains, and 2 first lieutenants. The acts date from 1878 to 1894. One of these bills was debated several sessions.

But the officers that have been retired already under the general acts of Congress seem to have the same equity to increased rank and pay, so far as they have served in the war. The "limited list" of the Army Register (p. 177, etc.) shows 16 colonels and 16 lieutenant-colonels, all of whom were in the war, and 29 majors, 21 of whom were in the war. Of the captains, 152 were in the war; of the first lieutenants, 57, and of the second lieutenants, 6. Almost all were retired for disabilities or wounds in line of duty or after over thirty years' service. In the "unlimited list" (some of whom were transferred from the previous list) are 76 colonels and 21 lieutenant-colonels, all of whom served in the civil war; 48 of the majors also served, 62 captains; 10 first lieutenants, and 2 regimental chaplains. Some few of these were retired with the advanced grade to which they were entitled by reason of seniority, but which they were unable to take in active service by reason of not being able to pass the physical examination. (Supplement to the Revised Statutes, third proviso, p. 812.) These officers were largely in the Volunteer Army. Sometimes they appear to have been young men, full of the gallantry of youth and military fervor; sometimes they were older men, too old to start anew in life, who had held high rank in the volunteers, but preferred to take a lesser place in the Army of their country. The larger proportion, as will be seen, are captains, receiving a pay of about \$2,200 a year each.

It appears to us that no discrimination can be made between these gallant men. Their cases can not come generally before Congress. By regulation 5 of the Army:

Efforts to influence legislation affecting the Army, or to procure personal favor or consideration should never be made except through the regular military channels, and the adoption of any other method will be noted in the military record of those concerned.

Neither the committee nor the House have the time or the proper facilities to institute a searching and careful investigation of all these cases and to select those which are the most deserving. Special bills for that purpose are likely to come before the committee only when the friends of some particular officer take the matter in hand. We do not say that there are no special cases of mistake, or misapprehension, or extreme injustice done by the laws of promotion, where relief may not be afforded, but in these hundreds of cases of uniform good service and gallantry, each one of them with a war record, discrimination should not be attempted except by general law and general rules to be administered by the War Department; and if there be any difference to be made, it should seemingly be in favor of those whose wounds or infirmities contracted in the service render their retirement necessary, before they reach the highest grades.

Some of us, therefore, favor a general bill. The question to determine, in these days of economy, is whether the means can be spared to reward these brave men. The difference in pay per month, as will appear by the following table, will run from \$8.75, for a lieutenant, to \$62.50, for a colonel, but the increase will not be proportionate—a captain, not mounted, receiving a monthly increase of \$61.25, while the captain, mounted, will receive but \$33.75. This table, as well as the statements as to numbers already made, has been compiled as fairly as could be from the army list, but does not pretend to be absolutely accurate. But, as nearly as can be estimated, about \$265,000 might be expected to cover the increase in pay for the present retired list, and \$100,000 additional would probably cover the increase in pay of the officers within the year, and a present annual appropriation would, therefore, be needed of about \$365,000 if such a general act should pass.

While the veterans of the late war who are still in the service are likely within the next ten or fifteen years to be all placed upon the retired list, that list will be likewise diminished from time to time by the loss of many old comrades by death, and we are of the opinion that the amount named is not likely to be largely increased in any one year, and will soon diminish. It is for the House to determine whether the appropriation can be afforded and whether the measure is a wise one.

We do not concur on this point, but we agree in deprecating special legislation in so wide a field.

R. WAYNE PARKER.
M. GRIFFIN.
R. P. BISHOP.
D. G. TYLER.
GEO. B. McCLELLAN.

I concur in the above report in the Gordon case, but do not agree to the substitute.

JOSEPH E. WASHINGTON.

Table showing approximately the numbers on the present retired list, their present and proposed pay, and the increased appropriation requisite therefor.

Rank.	No.	Present monthly pay.	Proposed monthly pay.	Difference.	Total.
Colonel.....	92	\$281. 25	\$343. 75	\$62. 50	\$5, 650. 00
Lieutenant-colonel	37	250. 00	281. 25	31. 25	1, 156. 25
Major.....	77	218. 75	250. 00	31. 25	2, 406. 25
Captain, mounted	214	175. 00	218. 75	33. 75	*10, 700. 00
Captain, not mounted.....		157. 50	218. 75	61. 25	
First lieutenant, mounted.....	67	140. 00	175. 00	35. 00	†2, 010. 00
First lieutenant, not mounted.....		131. 25	157. 50	26. 25	
Second lieutenant, mounted.....	6	131. 25	140. 00	8. 75	52. 50
Second lieutenant, not mounted.....		122. 50	131. 25	8. 75	
Chaplain †.....	2	157. 50	218. 75	61. 25	122. 50
Total additional pay for present retired list per month.....					22, 097. 50
Total additional pay for present retired list per year.....					265, 170. 00

* Averaged at \$50 monthly, being mostly unmounted.

† Averaged at \$30 monthly, being mostly unmounted.

‡ Some chaplains have been included with captains.

SUBSTITUTE RECOMMENDED BY PART OF THE MINORITY.

A BILL to define the grade of certain retired officers of the Regular Army, and for other purposes.

Be it enacted, etc., That all officers of the Regular Army not above the rank of colonel, who were in the Regular or Volunteer Army of the United States otherwise than as cadets at the Military Academy between April twelfth, eighteen hundred and sixty-one, and April ninth, eighteen hundred and sixty-five, and have been heretofore, or shall be hereafter, placed upon the retired list under any general statute, shall, while so retired on and after the first day of July, eighteen hundred and ninety-six, have the rank and retired pay of the grade or rank next above the grade or rank last held by them respectively in the active list of the Regular Army.

SEC. 2. That for the purpose of carrying out the foregoing provision the sum of three hundred and sixty-five thousand dollars, or so much thereof as may be necessary, be, and the same is hereby, appropriated, out of any moneys in the Treasury not otherwise appropriated, for the fiscal year ending June thirtieth, eighteen hundred and ninety-seven.

JOHN J. SHIPMAN.

FEBRUARY 24, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MINOR, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 1030.]

The Committee on Claims, to whom was referred the bill (H. R. 1030) entitled "A bill to execute the findings of the Court of Claims in the matter of the claim of John J. Shipman," has carefully examined the records in this case and find that the report made to the House January 29, 1895 (Fifty-third Congress, third session), covers the ground very thoroughly, and, as shown by evidence in the case, is correct.

Your committee therefore append said report and incorporate the same as a part of the report of this committee, and recommend that the bill do pass.

[House Report No. 1695, Fifty-third Congress, third session.]

The Committee on Claims, to whom was referred the bill (H. R. 7076) entitled "A bill to execute the findings of the Court of Claims in the matter of the claim of John J. Shipman," respectfully submit the following report:

A contract was entered into by Capt. James C. Post, for the Government of the United States, with David B. Shipley for the delivery of stone for the construction of a lock in the Big Sandy River. By an agreement between said Shipley and said John J. Shipman the latter furnished the stone required by the contract. This agreement was known by the Government officers, and all the dealings of the latter were with Mr. Shipman. The quantity of stone required by the contract was delivered, but orders were given to Mr. Shipman under which he delivered stone and made changes in cuttings required in excess of what the contract called for. Payment was duly made to the extent of what the contract called for, but no payment was made for the excess above alluded to, and, as Mr. Shipman was in no position to enforce his claim therefor by a suit in the Court of Claims, he applied to Congress for relief, and the matter was referred by Congress to the Court of Claims.

He then filed his petition in that court, and case proceeded to final hearing, resulting in a finding that there is due to Mr. Shipman the sum of \$17,811.96.

Your committee have examined the record and find that the matters involved were carefully and exhaustively considered. Much testimony was taken, and the case was carefully prepared and tried on behalf of the Government, with the result above named. There seems to be no reason to question the accuracy of the findings of the court.

The Government has received and is now enjoying the benefit of the material and labor, and Mr. Shipman should be paid therefor without delay.

Your committee therefore recommend that the bill do pass.

The findings of the Court of Claims are hereto appended.

[Senate Mis. Doc. No. 103, Fifty-third Congress, second session.]

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, February 28, 1894.

SIR: Pursuant to the order of the court, I transmit herewith a certified copy of the finding filed by the court in the aforesaid cause, which case was referred to this court by the resolution of the Senate of the United States under the acts of March 3, 1883, and of March 3, 1887.

I am, very respectfully, yours, etc.,

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Hon. ADLAI E. STEVENSON,
President United States Senate.

[In the Court of Claims. Congressional, No. 6653. John J. Shipman, claimant, v. The United States.]

STATEMENT OF CASE.

This claim in the above-entitled case was transmitted to the court on the 16th day of January, 1889, by the following resolution of the Senate:

"Resolved, That the bill (S. 2081) entitled 'A bill for the relief of John J. Shipman,' now pending in the Senate, together with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims in pursuance of the provisions of an act approved March 3, 1883, and an act entitled 'An act to provide for the bringing of suits against the Government of the United States,' approved March 3, 1887, to find and report to the Senate the facts bearing upon the merits of the claim, including the loyalty of the claimant and all other facts contemplated by the provisions of said act."

Messrs. Shellabarger, Wilson, and Hoehling appeared for the claimant, and the Attorney-General, by Felix Brannigan, esq., his assistant, and under his direction, appeared for the defense and protection of the interests of the United States.

The case was brought to a hearing on its merits on the 28th day of February, 1893.

The court, upon the evidence, and after considering the briefs and arguments of counsel on both sides, makes the following

FINDINGS OF FACT:

I.

On the 23d day of July, 1883, David B. Shipley entered into a contract with Capt. James C. Post, U. S. Army, of the Corps of Engineers, on behalf of the United States, for the delivery of stone for the construction of a lock on the Big Sandy River, near Louisa, Ky., and which said contract was duly approved by the Chief of Engineers, U. S. Army, on the 10th day of August, 1883. On the 1st day of September, 1884, a supplemental agreement was entered into, which was duly approved by the Secretary of War on the 17th day of September, 1884.

II.

On the 23d day of August, 1883, the claimant entered into a contract with the said David B. Shipley, whereby the said Shipman agreed to deliver stone contemplated by the first contract named in the finding, in accordance with the requirements contained therein and at the prices fixed by the contract. The second contract was subsequently entered into by Shipley with the assent of the claimant.

III.

After the making of this contract between said Shipley and Shipman, Shipley, as well as the claimant, requested that the name of Shipman might be substituted for his (Shipley's) in the contracts, the requests being accompanied by the written consent to such change on the part of the bondsmen of Shipley. Capt. Post, having charge of the construction of said lock, recommended that said substitution be made; but the Chief of Engineers refused, on the ground of its not being lawful so to do. Thereupon the claimant gave notice to the Secretary of War and the other officials of the Government having charge and control of the matter of the execution of the contracts of the agreement by which he, Shipman, was to complete the said contract of Shipley; and the Secretary of War, and other officials having the matter in charge, with full notice of said arrangement with Shipman, recognized him throughout the entire execution of said contracts as the party who, *in fact*, executed the same, and who delivered all the stone in the execution thereof.

IV.

After the foregoing arrangement was reached the claimant proceeded, with full knowledge and approval of the defendant's officers having charge of the work, and, under their orders and directions, fully performed all the requirements and conditions of Shipley's contract, to the satisfaction of the officers in charge of the work.

V.

From time to time during the progress of the work payments were made by drafts or warrants, payable to the order of Shipley, and which were indorsed by Shipley, and by him delivered to the said Shipman, who received the proceeds thereof, amounting, in the aggregate, to \$66,285.22.

VI.

The contractor, David B. Shipley, has disavowed and disclaimed all right and interest in the compensation, both that paid and that unpaid, and has, in this case, expressly declared and testified that he is not interested in the claim here sued for, and that he had no connection with the execution of the contracts, and that he did not furnish any money for the carrying out of the same; and he has filed in this case his written disclaimer of all interest in the compensation due under the contract, and has ordered and requested that any such compensation remaining due, if any, may be paid to the claimant, Shipman.

VII.

The contracts between Captain Post and Shipley, before referred to, contained, among others, the following provision:

"The decision of the engineer officer in charge as to quality and quantity shall be final."

The assistant engineer in charge of the work was satisfied with and approved the quality of work performed by claimant, but a dispute arose as to the quantity of stone furnished, and the mode and manner of measurement, and of ascertaining the quantity where it could not be ascertained by direct measurement. The decision of the assistant engineer was that the claimant had furnished the following quantities:

	Cubic yards.
Cut stone, dressed face.....	1, 552. 46
Cut stone, quarry face.....	803. 42
Squared stone.....	2, 002. 66
Backing stone.....	6, 042. 58
Special stone.....	785. 40

The whole of which aggregated, at contract rates, the sum of \$66,285.22.

VIII.

The contract also contained, among others, the following provisions:

"If at any time during the prosecution of the work it be found advantageous or necessary to make any change or modification in the project, and this change or modification should involve such change in the specification as to character and quantity, whether of labor or material, as would either increase or diminish the cost of the work, then such change or modification must be agreed upon in writing by the contracting parties, the agreement setting forth fully the reasons for such change and giving clearly the quantities and prices of both material and labor thus substituted for those named in the original contract, and before taking effect must be approved by the Secretary of War: *Provided*, That no payments shall be made unless such supplemental or modified agreement was signed and approved before the obligation arising from such modification was incurred.

"No claim whatever shall at any time be made upon the United States by the party or parties of the second part for or on account of extra work or material performed or furnished or alleged to have been performed or furnished under or by virtue of this contract, and not expressly bargained for and specifically included therein, unless such extra work or materials shall have been expressly required in writing by the party of the first part, or his successor, the prices and quantities thereof having been first agreed upon by the contracting parties and approved by the Chief of Engineers."

But the claimant did not comply with the foregoing conditions of the contracts—that is to say, he did not procure an agreement in writing with regard to the extra stone furnished by him for the use of the defendants in excess of the quantities prescribed by the contracts, as shown in the next finding.

IX.

The quantities of stone required by the contracts were stated as follows:

	Cubic yards.
Cut stone, dressed face.....	1, 352. 05
Cut stone, quarry face.....	943. 00
Squared stone.....	2, 000. 00
Backing stone.....	6, 089. 05
Special stone, coping, etc.....	853. 00

The court find from the evidence in the case, irrespective of the foregoing restrictions of the contracts, that the quantities of stone actually furnished and delivered by the claimant for the use of the defendants were, at contract rates, as follows:

	Cubic yards.	Amount.
Cut stone, dressed face.....	1, 717. 23	\$12, 879. 22
Cut stone, quarry face.....	1, 480. 35	9, 622. 27
Squared stone.....	2, 002. 56	11, 014. 08
Backing stone.....	6, 891. 88	31, 231. 40
Special stone, coping, etc.....	1, 357. 91	19, 350. 21
Amounting in all to.....		84, 097. 18
The claimant has been paid.....		66, 285. 22
Leaving a difference of.....		17, 811. 86

BY THE COURT.

Filed November 6, 1893.

A true copy.

Test this — day of —, A. D. 1894.

[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

ADDITIONAL COPIES SECOND SPECIAL REPORT OF THE
COMMISSIONER OF LABOR.

FEBRUARY 24, 1896.—Committed to the Committee of the Whole House on the state
of the Union and ordered to be printed.

Mr. PERKINS, from the Committee on Printing, submitted the following

REPORT:

[To accompany House Con. Res. No. 2.]

The Committee on Printing have had under consideration the resolution (House Con. Res. No. 2) to print 5,000 additional copies of the Second Special Report of the Commissioner of Labor, and recommend that it be agreed to.

The Commissioner of Labor represents to your committee that the constant demand for this report, through Members of Congress and independently thereof, warrants the additional number of copies called for in this resolution.

The Public Printer estimates the cost of the same at \$2,250.

REPORTS, MAPS, ETC., RELATING TO FUR SEALS, ETC., IN
ALASKA.

FEBRUARY 24, 1896.—Committed to the Committee of the Whole House on the state
of the Union and ordered to be printed.

Mr. PERKINS, from the Committee on Printing, submitted the following

REPORT:

[To accompany House Con. Res. No. 19.]

The Committee on Printing, having had under consideration the resolution (House Con. Res. No. 19) authorizing the Secretary of the Treasury to print the reports, correspondence, charts, maps, and other documents now on file in the Treasury Department or other branches of the Government relating to the fur seal, salmon fisheries, and other matters pertaining to the Territory of Alaska, have had the same under consideration and recommend that it be agreed to.

The archives of the Treasury Department contain many valuable reports relating to the seal and other fisheries of Alaska and other questions connected with the Territory. It is desirable that these reports be printed, as their historical value will be great. A resolution, substantially the same, passed the House March 2, 1895, but failed to pass the Senate because of the lateness of the session.

It is not possible to give an accurate estimate as to the cost of this publication, but it is ascertained from the Treasury Department that it is believed the expense will not exceed \$3,000.



UNIFORM SYSTEM OF NUMBERING PUBLIC DOCUMENTS.

FEBRUARY 24, 1896.—Referred to the House Calendar and ordered to be printed.

Mr. PERKINS, from the Committee on Printing, submitted the following

REPORT:

[To accompany H. Res. 126.]

The Committee on Printing, to whom was referred the joint resolution (H. Res. 22) providing for a uniform system of numbering public documents, beg leave, after careful consideration of the subject of said resolution, to report as a substitute for the same the accompanying joint resolution, providing for a uniform system of titling and binding public documents, and unanimously recommend its passage.

Those who are familiar with the system which has hitherto obtained in the matter of classifying and of assigning titles to the publications of the Government, and with the style in which they have been bound, are probably fully aware of very serious defects in the system and of the possibility of securing some improvement in the general appearance of public documents. Until the present Congress publications ordered by Congress were divided into six classes, viz, Senate executive documents, Senate miscellaneous documents, and Senate reports; House executive documents, House miscellaneous documents, and House reports. By the act of January 12, 1895, however, the executive and miscellaneous documents of each House were consolidated in a single class, viz, Senate and House documents. This was a movement in the right direction, as the simpler the classification and the smaller the number of classes into which documents are divided the better on every consideration.

This classification, however, still leaves in either the Senate or House series all the annual reports of the several Executive Departments and offices of the Government, which by law are made either to the President or to Congress. Of these it may be said that being submitted not to the Senate or to the House, but to Congress, they are appropriately and distinctively neither Senate nor House documents. Inasmuch, however, as they are classified and published as such, they become subject to all regulations as to numbering, titling, and issuing in different editions now in force regarding Senate and House documents. For example, in the matter of numbering, hitherto the message of the President and the annual reports of heads of Departments and bureaus have been denominated No. 1 of House Executive Documents, in parts, the reports of the Secretary of War, for instance, becoming under this system—

House Executive Documents, vol. 2, No. 1, part 2, vol. 1, being reports of the Secretary and miscellaneous reports; vol. 3, No. 1, part 2, vol. 2, part 1, being report of the Chief of Engineers, part 1, etc.

The reports of the Secretary of the Interior—

Vol. 11, No. 1, part 5, vol. 1, being report of the Secretary of the Interior and of the Commissioner of the Land Office.

Vol. 14, No. 1, part 5, vol. 4, part 1, being report of the Director of the Geological Survey, part 1, etc.

A more cumbersome, complicated, and inconvenient system of numbering documents could not well be devised. It is surprising that it has been so long tolerated. Another evil involved in present methods is the publication of identically the same work in several editions, issued in different styles of binding, with varying title pages and back titles, so that one may possess three or four copies of the same document and be entirely unable to detect the fact from their external appearance.

This is true of nearly all the reports specified in the present bill. They are issued first as Senate or House documents, bound in leather with appropriate titles as such. They appear again in an edition known as message and documents, correspondingly backed. They are published once more in a Departmental edition as reports of the Secretary, etc., vols. 1, 2, 3, etc., and lastly many of them in a bureau edition as reports of the chief of the bureau with proper titles. This multiplicity of editions is the bane of librarians and indexers. It prevents any satisfactory classification and arrangement of these documents upon the library shelves, as it so often happens that one volume of a series is of one edition and the next of another, and so it is not surprising that sometimes an orderly librarian in despair is disposed to reject all public documents, while the labor of preparing a satisfactory general index is vastly increased. To remedy these evils the committee recommend that all these annual reports, which are properly neither Senate nor House documents, be hereafter excluded from the Congressional series, and issued simply as annual reports, each with its own distinct and appropriate title, which title shall be permanent and given to every copy of the work issued, the only change from year to year being that of the date of the report. This practically reduces the three or four editions of these documents issued annually to a single edition, and removes all uncertainty and ambiguity in the matter of the subject of the volumes as indicated by the title. The Department and bureau from which each volume emanates is also clearly shown. Samples of style of titles which the committee would suggest are found at the end of this report.

In the matter of binding these documents the committee recommend the substitution of one-half morocco in the place of full sheep for the 500 copies authorized for distribution to depositories of public documents, the publications of each department to be characterized by distinctive color in the binding. This is recommended as more economical, as helping to improve the appearance of public documents, especially when grouped upon library shelves, and as making more easy the identification of the reports of the several Departments. Everyone is acquainted with the somewhat forbidding aspect which the publications of the Government for the most part present. In a miscellaneous collection of books it is not ordinarily difficult to identify any public documents that may possibly be included among them, merely by their external appearance, so often in unfavorable contrast with surrounding volumes.

There is no reason why the publications of the Government should not be made as attractive to the eye as are the works of private publishers, and that without additional expense. A tasteful variety in the color of the binding of different series of documents would aid mate-

rially in this direction. In particular, it is believed that some advantageous change could be made in the binding of volumes designed for distribution to depositories of public documents. Hitherto, these have been bound in full sheep. Everyone is familiar with the appearance these volumes present when massed upon the shelves of our public libraries. It is not such as suggests anything interesting within their covers or invites to an examination of their contents. To bind these volumes in half morocco would probably be somewhat less expensive, and would seem to put them almost out of the category of public documents, so great a divergence from the stereotyped style would they present.

Section 4 provides that Senate and House documents shall be numbered consecutively through an entire Congress, as is now the case with the reports of the two Houses. It is believed that this will render reference to these documents more easy and convenient and facilitate the indexing thereof, and will, therefore, on the whole, be much more satisfactory than the present method of numbering them by sessions.

The bound volumes of reports of the Senate and House usually contain more than one report, and often many. Each report is separately paged and numbered, but the volumes themselves have hitherto never been paged. It will, in the judgment of the committee, be much better if both the reports and volumes were paged, so that in consulting these documents reference could be made to the pages of the volume as well as to the number of the report. This will greatly subserve the convenience of all having occasion to consult these volumes, especially if a proper index were prepared, and would naturally facilitate the preparation of such an index.

The pagination can readily be accomplished by attaching the number of the page of the volume at the top, and that of the reports at the bottom of the page, as provided in section 5 of the bill.

The Committee on Printing therefore recommend that H. Res. 22, a joint resolution providing for a uniform system of numbering public documents, be indefinitely postponed and that the committee substitute therefor be agreed to.

MESSAGE	REPORT	COMMERCE
of the	of the	
PRESIDENT	SECRETARY	and
and	of the	
FOREIGN	TREASURY.	NAVIGATION.
RELATIONS.		
1897.	1897.	1897.
—	—	—
—	—	—
STATE	TREASURY.	TREASURY.

APPROPRIATIONS,

NEW OFFICES,

ETC.

1897.

—

—

TREASURY.

REPORT

of the

CHIEF

of

ENGINEERS.

1897.

—

Vol. 1.

—

WAR.

REPORT

of the

COMMISSIONER

of

EDUCATION.

1897.

—

—

INTERIOR.

AMERICAN
EPHEMERIS

and

NAUTICAL

ALMANAC.

1897.

—

—

NAVY.

REPORT

of the

BUREAU

of

ETHNOLOGY.

1897.

—

—

SMITHSONIAN.

REPORT

of the

WEATHER

BUREAU.

1897.

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AGRICULTURE.



JAMES DUKE.

FEBRUARY 24, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WILSON, of New York, from the Committee on Naval Affairs, submitted the following

REPORT:

[To accompany H. R. 572.]

The Committee on Naval Affairs, to whom was referred the bill (H. R. 572) for the relief of James Duke, submit the following report:

This claim was presented to the Committee on Naval Affairs of the Fifty third Congress and was favorably reported upon by that committee. A careful examination of the facts involved brings your committee to the same conclusion as that reached by the committee of the last Congress.

A copy of said report is hereto attached and made a part of this report.

Your committee recommend the passage of the bill with the following amendment:

In section 2 strike out the whole of lines 1, 2, 3, 4, 5, 6, 7, and 8.

[House Report No. 1777, Fifty-third Congress, third session.]

The Committee on Naval Affairs, to whom was referred the bill (H. R. 4226) for the relief of James Duke, having had the same under consideration, report as follows:

The above-stated bill seeks to amend the naval record of the said Duke by removing the charge of desertion standing on the records of the Navy Department against his name, and to authorize the Secretary of the Treasury to pay him for services rendered while in service in the Navy, from February 21, 1862, to July 6, 1863, as a first-class fireman.

From the evidence submitted before the committee it appears that the said Duke enlisted on April 21, 1861, at Milwaukee, Wis., as a member of the Montgomery Guards; was made a sergeant of said company, which was assigned to the Sixth Regiment of Wisconsin Infantry. The regiment was ordered to Virginia when a call for volunteers was made to man the Mississippi River gunboats, it being understood that the said volunteer service was not to continue for a longer period than twelve months.

Duke became a volunteer under these conditions, and joined the fleet at Cairo, Ill., February 21, 1862. Served on the U. S. S. *Baron De Kalb* until the surrender of Vicksburg, in 1863. He obtained a leave of absence for one day to visit some of his former army companions belonging to the Seventeenth Wisconsin Regiment, and before his leave expired the vessel had left for the Yazoo River, and was shortly afterwards blown up by a torpedo. He subsequently shipped for one year on the U. S. S. *Black Hawk*, which was the first opportunity he had to join the service, and while so serving received some of his *De Kalb* prize money; but when making an effort to secure his pay for service on said vessel was informed that he was marked as a deserter therefrom.

Duke again enlisted in the Navy at the expiration of his term of service on the *Black Hawk*, for two years; served as a first-class fireman on board the U. S. S. *Oriole* and *Great Western*, and was discharged from the service August 20, 1865.

All the foregoing facts and circumstances are fully set forth in an affidavit filed with your committee, which said affidavit is hereto annexed and made a part of this report.

Your committee report the bill back with amendments as follows:

Add after line 8, section 1 of the bill, the words "by removing the charge of desertion from the record and granting him an honorable discharge." Also by striking out all of section 2.

And as so amended your committee recommend that the bill do pass.

AFFIDAVIT OF JAMES DUKE.

STATE OF WISCONSIN, *County of Milwaukee, ss:*

James Duke, being first duly sworn on oath, deposes and says as follows:

I have been informed that the official record of the Navy Department at Washington charges me with having on the 6th of July, 1863, deserted from the U. S. S. *Baron De Kalb*. This record is a gross injustice to me, and I have been trying ever since I heard of it to have it corrected, but so far without success. The facts of the case are as follows:

April 21, 1861, I joined the Montgomery Guards of Milwaukee, Wis., which company was assigned to the Sixth Wisconsin Infantry, and of which company I was sergeant. While the regiment was camped at Arlington Heights, Virginia, a call was made for volunteers to man the Mississippi River gunboats, it being understood that such volunteers were taken on its detached service for a period not to exceed twelve months, and fully 18 men were taken from each regiment. I was one of those who volunteered, and I joined the fleet at Cairo, Ill., February 21, 1862, and served on the U. S. S. *Baron De Kalb* until the surrender of Vicksburg in 1863 as first-class fireman.

On July 5 I obtained leave to go ashore for twenty-four hours. I went back to Vicksburg to the camp of the Seventeenth Wisconsin Infantry to see some of my old officers who had formerly been in the Sixth Wisconsin—Colonel Malory, Major McCaully, Adjutant Krane, and others. When I returned next morning to go on board the *De Kalb* she had left for Yazoo River, and I was left behind. I returned to the camp of the Seventeenth Wisconsin and told Major McCaully the fix I was in and asked him what to do. I did not know that I belonged to the Navy at all, believing that I was still in the Army, and only served on the *De Kalb* under detached service, and I therefore supposed it would be proper for me, having been left by the boat, to join any Wisconsin regiment. Major McCaully went with me to General McPherson, and I told him my case. The general said I had better wait until the *De Kalb* returned, but afterwards she was blown up by a torpedo and never returned. I was then stranded, without a cent in my pocket, and the Seventeenth Wisconsin had gone away. I went to Colonel Coolbough, who was in charge of the works at Vicksburg, and told him how I was situated. He put me to work repairing a turntable. When I had earned a little money the colonel gave me a pass up the river. All this time I was certain that I had served four months and seventeen days on the boat.

I then shipped for one year on the flagship *Black Hawk* and told my case to Admiral D. D. Porter. He said, "You are all right, my boy." While on the flagship I got some of my *De Kalb* prize money, but when I asked for my pay for sixteen and one-half months' hard work, I was told that I was a deserter. After my service on the flagship I shipped on the *Oriole* and served until the 21st of August, 1865. I have never received one cent of pay for my sixteen and one-half months' service on the *De Kalb*. My pay was \$30 a month for a part of the time and \$31 a month for the balance. I am old and poor and need this money which I earned by faithful service to the Government, but above all things I want this charge of desertion removed. I served faithfully during the entire war from the spring of 1861 to the spring of 1865, and it is not fair that I should be branded as a deserter when I never deserted.

Subscribed and sworn to before me this 3d day of May, 1894.

JAMES DUKE.

HUGH RYAN,

United States Commissioner in and for the Eastern District of Wisconsin.

PRINTING REPORT OF SUPERINTENDENT OF THE LIFE-
SAVING SERVICE.

FEBRUARY 24, 1896.—Committed to the Committee of the Whole House on the state
of the Union and ordered to be printed.

Mr. PERKINS, from the Committee on Printing, submitted the following

REPORT:

[To accompany S. R. 65.]

The Committee on Printing, to whom was referred the joint resolution (S. R. 65), authorizing the printing of the Annual Report of the General Superintendent of the Life Saving Service, having had the same under consideration, recommend that it be agreed to.

It is proposed to amend the act of January 12, 1895, so as to give authority to the Secretary of the Treasury to authorize the printing of such editions of the Annual Report of the General Superintendent of the Life-Saving Service as the requirements of the service may in his judgment demand.

The Secretary of the Treasury has furnished the following memorandum and the same is made a part of this report:

Memorandum concerning reports of the General Superintendent of the Life-Saving Service.

The act of January 12, 1895, makes no specific provisions for the printing of the Annual Report of the General Superintendent of the Life-Saving Service, but it is understood that, under the provisions of section 89, 1,000 copies may be printed and bound, and 2,500 copies without appendixes may be issued in pamphlet form. Owing to the plan upon which the report is constructed if what would probably be called appendixes were excluded the rest would be of little importance or value.

The number of copies heretofore printed and bound annually has been 4,000, and this number has been found hardly sufficient to supply the demand. The editions of several years are entirely exhausted.

Copies have to be supplied to the foreign governments, and some of such governments ask for several copies. Requests for them are continually made by public libraries and other institutions, and scarcely a day passes without requests from interested citizens. Many copies are also asked for by Senators and Members of the House of Representatives, none being printed for the use of the Senate and House. Copies of the reports for past years are very frequently asked for.

STATUTES OF THE DISTRICT OF COLUMBIA.

FEBRUARY 24, 1896.—Referred to the House Calendar and ordered to be printed.

Mr. PERKINS, from the Committee on Printing, submitted the following

REPORT:

[To accompany House Con. Res. No. 18.]

The Committee on Printing, to whom was referred the resolution (House Con. Res. No. 18) directing the Secretary of the Interior to deliver from the number in his care 1 copy of the compiled statutes in force in the District of Columbia to each Senator, Representative, and Delegate in Congress, for his personal use, and 500 copies to the Superintendent of Documents for distribution to depositories of public documents; also providing that the remaining copies of the work may be sold at \$2.50 per copy, have had the same under consideration and recommend that it be agreed to.

This resolution provides for no expense, but simply authorizes the distribution and disposition of the statutes indicated, now held by the Secretary of the Interior.

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ADDITIONAL COPIES EIGHTH SPECIAL REPORT COMMIS-
SIONER OF LABOR.

FEBRUARY 24, 1896.—Committed to the Committee of the Whole House on the state
of the Union and ordered to be printed.

Mr. PERKINS, from the Committee on Printing, submitted the following

R E P O R T:

[To accompany House Con. Res. No. 3.]

The Committee on Printing, having had under consideration the resolution (House Con. Res. No. 3) providing for the printing of 8,000 additional copies of the Eighth Special Report of the Commissioner of Labor, relating to the housing of the working people, recommend that the same be agreed to.

The value of this report and the constant demand therefor through Members of Congress and upon the Commissioner of Labor warrants, in the judgment of your committee, the printing of the additional number of copies named in this resolution.

The Public Printer estimates the cost of the work at \$5,850.



DECISIONS OF THE COURTS RELATING TO WAR CLAIMS.

FEBRUARY 24, 1896.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. PERKINS, from the Committee on Printing, submitted the following

REPORT:

[To accompany H. Res. 127.]

The Committee on Printing, to whom was referred the joint resolution (H. Res. 75) to provide for the printing of a digest of the laws and decisions of the courts relating to war claims, have had the same under consideration and report a substitute therefor, with the recommendation that the same do pass, and that the original resolution be indefinitely postponed.

These laws are now scattered in the Revised Statutes, through many volumes of the United States Statutes, and they are often found in appropriation acts. In this shape these laws are not readily available to Members of Congress who have occasion to examine the same, and who, possibly, are not familiar with these laws.

Your committee are of the opinion that they should be compiled in convenient form for reference. Such a compilation would be of great service to the committees of Congress handling war claims, and would enable them to do their work more expeditiously and with greater security to the Government.

A compilation such as herein contemplated has been prepared under the direction of the Committee on War Claims, and includes the decisions of the Executive Departments and the courts relating to war claims, and a statement of the number of claims allowed and disallowed, and other valuable statistics.

The Public Printer estimates the cost of printing 100 copies of such a digest at \$1,480.

Contents of the compilation—laws relating to the following subjects:

Army and Navy officers, longevity pay of.

Artificial limbs for soldiers and seamen.

Assignment of claims against the United States.

Awards of commission on claims in the Department of the West.

Boards of survey.

Bounties, equalization of.

Bowman Act, the.

British and American Claims Commission.

Bureau for the relief of freedmen and refugees.

Captured and abandoned property.

Claims for quartermaster stores and commissary supplies of loyal citizens residing in loyal States furnished the Army of the United States and commonly known as the "Fourth of July claims."

Claims growing out of the occupation of real estate.

2 DECISIONS OF THE COURTS RELATING TO WAR CLAIMS.

Claims for stores and supplies furnished the Army by loyal citizens residing in States declared in rebellion.
Confiscation acts.
Contracts.
Cotton, tax on.
Court of Claims.
Derelict property.
Desertion.
Drafted men.
French spoliation claims.
Horses and horse equipments and other property lost or destroyed in the military service of the United States.
Indian depredation claims.
Interest on claims.
Laws of war, summary of.
Medical services, claims for.
Muster and pay of certain officers and enlisted men of the Army.
Navy laws relating to vessels of war and steam machinery, and acts for relief of certain naval contractors.
Nurses, female, in Army.
Officers and enlisted men, claims for loss of private property.
Officers of volunteers, claims of, for three months' pay when mustered out.
Pardon and amnesty.
Payment bar.
Prisoners of war, commutation of rations to.
Prize and prize money. Law of prize.
Proclamations, schedules of proclamations of Presidents Lincoln and Johnson, respecting the States declared in rebellion.
Quartermaster's Department, organization of.
Safeguards and safe conducts.
Scouts and guides, extra duty pay, etc.
States and Territories, claims of, for suppression of Indian hostilities.
Steamboats and other vessels and railroad engines and cars lost or destroyed in the military service of the United States.
Surgeons, contract, claims of.
Sutlers.
The Tucker Act.
Volunteers, claims connected with collecting, drilling, and organizing of.
War claims of States—war of 1861-1865, for raising troops.
War with Mexico.
War of 1812.
War of the Revolution.

○

STEAM REVENUE CUTTER.

FEBRUARY 25, 1896.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. BENNETT, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. R. 3561.]

The Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 3561) providing for the construction of a steam revenue cutter for service on the Atlantic coast, with headquarters at the port of New York, respectfully report:

Your committee have deemed it advisable to authorize the construction, as they are informed that the appropriation is sufficient to construct a vessel of the first class in all particulars. The service and the importance of the port, at present unprotected, warrant that care should be taken in the preparation of the plans to meet the demands both in respect to speed and construction. The letter from the Secretary of the Treasury recommending the passage of the bill is made a part of this report.

Your committee have authorized a favorable report on the bill, requesting enactment into law for the protection of the Government's interest and the benefit of commerce.

TREASURY DEPARTMENT,
Washington, D. C., January 24, 1896.

SIR: House bill No. 3561, providing for the construction and equipment of a revenue cutter of the first class for service on the Atlantic coast of the United States, with headquarters at the port of New York, referred to me by your committee for suggestions touching the merits of the bill and the propriety of its passage, has been received.

There is not now and has not been a cruising vessel of the Revenue-Cutter Service stationed at New York for nearly two years. Attention was called to this fact in the annual report of the Secretary of the Treasury and the reasons for it briefly given, coupled with a recommendation that a suitable vessel be provided for that station as follows:

"It was found necessary to send the *Grant* from the New York station * * * to reenforce the fleet on the Pacific for the work in Bering Sea, and that station has, therefore, been practically abandoned, to the serious detriment of the interests of the Government service and of the commercial interests of the country. It is earnestly recommended that an able vessel, of suitable proportions, fitted to take and keep the sea, be authorized for the New York station. The great commercial metropolis of the country should be provided with a vessel of the Revenue-Cutter Service commensurate with her vast and constantly growing commerce." (Report Secretary of the Treasury, 1895, p. 22.)

A suitable vessel for service on the New York station should be of such size, construction, capacity, speed, and steam power as to be able to take and keep the sea. The various provisions of law, such as the enforcement of the customs and navigation laws, the quarantine laws, the neutrality laws, and the assistance of vessels in distress, under the provisions of section 1536, Revised Statutes, require the presence of an able seagoing ship on that station. The plan of such a vessel has been submitted to your committee, and it can probably be built and equipped for the sum named in the bill, viz, \$250,000.

I therefore recommend the passage of H. R. 3561.

Respectfully, yours,

J. G. CARLISLE, *Secretary.*

Hon. WM. P. HEPBURN, M. C.,

*Chairman Committee on Interstate and Foreign Commerce,
House of Representatives.*

MRS. ELVIRA MOORE, EXECUTRIX.

FEBRUARY 25, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BUCK, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1035.]

The Committee on War Claims, to whom was referred the bill (H. R. 1035) for the relief of Mrs. Elvira Moore, executrix of J. L. Moore, deceased, submit the following report:

During the late war for the suppression of the rebellion United States troops took from the farm of J. L. Moore, of Fairfax County, Va., three horses of the value of \$375.

The proof of the taking of the horses for which the claimant asks compensation is fully established by the evidence in the case.

This claim has never been examined or passed upon by the Southern Claims Commission or the Quartermaster-General of the Army, the same not having been presented for the reason that the claimant was ignorant of the requirements of the law. Mr. Moore was a poor and helpless cripple and not able to prosecute his claim. The proof clearly shows him to have been throughout the whole war a loyal man.

Your committee recommend the passage of the bill with the following amendment:

In line 6, after "J. L. Moore," insert "deceased, late of Fairfax County, Virginia," and in lines 6 and 7 strike out "and seventy-five."



BATH COUNTY, KY.

FEBRUARY 25, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PUGH, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 5881.]

The Committee on War Claims, to whom was referred the bill (H. R. 5881) for the relief of Bath County, Ky., report as follows:

It appears from the proof submitted that in the year 1864 a company of United States Cavalry occupied the court-house of Bath County, Ky., as quarters, and while using the said building it took fire and was destroyed. The value of the building so destroyed was \$10,000.

Your committee is of opinion that the county of Bath should be reimbursed by the Government, and report back the bill and recommend its passage.



B. F. MOODY & CO.

FEBRUARY 25, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. OTJEN, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2334.]

The Committee on War Claims, to whom was referred the bill (H. R. 2334) for the relief of B. F. Moody & Co., or their legal representatives, submit the following report:

The facts out of which this bill for relief arises will be found stated in House Report No. 1414, second session Fifty-third Congress, from the Committee on War Claims. A copy of said report is hereto attached and made a part of the report.

Your committee recommend the passage of the bill.

[House Report No. 1414, Fifty-third Congress, second session.]

The Committee on War Claims, to whom was referred the bill (H. R. 853) for the relief of B. F. Moody & Co., having examined and considered the same, report it back to the House with a recommendation that it do pass.

This same matter was before this committee in both the Fiftieth and Fifty-second Congresses, and was in both favorably reported with a suggested amendment as to amount, which is incorporated in the present bill. The report, which we adopt, was as follows:

Messrs. Moody & Co., on September 30, 1861, entered into a contract to furnish to the United States certain equipments for the use of the Third Regiment of Iowa Volunteer Cavalry. Said contract was made with said firm by Cyrus C. Bussey, colonel of said regiment, and was made by order John C. Fremont, major-general United States Army, as agent of the United States, in pursuance of a letter addressed to S. J. Kirkwood, governor of Iowa, the original of which is made a part of this report (marked A).

EXHIBIT A.

HEADQUARTERS WESTERN DEPARTMENT,
Saint Louis, September 14, 1861.

Hon. SAM'L J. KIRKWOOD,
Governor of Iowa:

You are hereby authorized to furnish Colonel Bussey's Third Iowa Cavalry with the cavalry equipments of the McClellan pattern, regulation style, quality, and price.

You are also hereby authorized to provide the regiment with the clothing of regulation color (blue) and quality; all wool; also with regulation quality of blankets.

These bills for cavalry equipments and clothing, made under contracts approved by you as governor of the State of Iowa, will be paid at these headquarters.

J. C. FREMONT,
Major-General, Commanding.

The contract for furnishing said Third Regiment of Iowa Cavalry is set forth in full (marked Exhibit B).

EXHIBIT B.

Articles of agreement made this 30th day of September, 1861, between Col. Cyrus Bussey, who, by authority from Maj. Gen. John C. Fremont, is acting as agent for the United States of America, of the one part, and B. F. Moody & Co., of Keokuk, in the State of Iowa, of the other part. This agreement witnesseth that the said Bussey, for and on behalf of the United States of America, and the said Moody & Co., for themselves, their heirs, executors, and administrators, have mutually agreed, and by these presents do mutually covenant and agree, to and with each other in manner following, viz:

First. That the said Moody & Co. shall deliver at Keokuk the goods and articles enumerated below within forty days from the date above written.

Second. The said Moody & Co. shall be paid for the goods within thirty days from the time of delivery and at the prices annexed to each article.

1,140 black wool cavalry hats, trimmed as per regulation, eagle, cross-swords, and feathers, at \$1.50.....	\$1, 710
1,140 overcoats, jackets, and pants, each to be all wool; coat lined with twilled flannel and trimmed according to regulation; pants to be reinforced; 212 jackets, to be trimmed according to regulation for non-commissioned officers, at \$29.....	33, 060
1,140 blouses or stable frock, all wool, lined with flannel, at \$3.75.....	4, 275
2,280 wool twilled shirts, gray, at \$1.50.....	3, 420
2,280 pairs gray net drawers, at 87½c.....	1, 995
2, 280 pairs gray wool socks, at 37½c.....	855
1,140 pairs cavalry boots, 20-inch leg, D sole, at \$3.75.....	4, 275
1,140 pairs 6-pound blankets, at \$6 per pair.....	6, 840
1,140 sets McClellan equipments for horses, viz:	
1,140 bridles, 1,140 saddlebags, 1,140 halters, 1,140 watering bridles, 1,140 brushes, 1,140 currycombs, 1,140 spurs, 1,140 carbine sockets, 1,140 feed bags, 1,140 saddles, and all the necessary girths, surcingles, cruppers, stirrups, etc., to make the saddle complete, at \$35.....	39, 900
12 sergeant's sashes, at \$2.50.....	30
1,140 canteens and straps, at 50c.....	570
1,140 horse blankets, at \$3.....	3, 420
85 Anderson tents, at \$60.....	5, 100
20 wall tents, at \$45.....	900
2 hospital tents, at \$110.....	220

The said Moody & Co. guaranty that the above goods shall stand inspection if inspected as soon as delivered.

The said Bussey, as agent, agrees to pay all freights and transportation charges on all the above goods from Chicago to Keokuk.

In witness whereof the undersigned have hereunto placed their hands and seals the day and date above written.

[L. S.]

CYRUS BUSSEY,
Colonel Third Iowa Cavalry.
B. F. MOODY & Co.

[L. S.]

Witness:

B. F. HAMBLETON.

It will be seen that by the terms of said contract Moody & Co. were to deliver said goods and equipments within forty days, which was promptly and faithfully done, as set forth in the affidavit of A. Hosmer, marked Exhibit C.

EXHIBIT C.

In the matter of B. F. Moody & Co., of Keokuk, Iowa, furnishing equipments and entire outfit for the Third Iowa Cavalry in the year 1861, as described at length in affidavit of Oscar Kiser of even date herewith, the entire equipage was delivered within contract time and all of quality superior to requirements of specifications, as was fully established before a Government investigating commission in Saint Louis, before which I appeared with all papers, etc., and testified at great length. Several of the rank and file of the regiment testified also, and samples of the goods furnished were before the commission, which after long and thorough investigation did not claim that we had not filled the contract perfectly satisfactory, but nevertheless cut our claim down more than \$8,000, giving no reason therefor except that the Government was poor and our contract prices too large.

A. HOSMER.

KEOKUK, IOWA, *December 11, 1886.*STATE OF IOWA, *Lee County, ss:*

The within statement was subscribed and sworn to by A. Hosmer, before me, this 11th day of December, 1886.

[SEAL.]

CLARENCE COMSTOCK, *Notary Public.*

Cyrus C. Bussey, who was the colonel of said regiment, and afterward major-general of volunteers, testified not only as to the prompt delivery of the goods contracted for by him, but also as to their quality and cheapness. It will be seen by reference to the contract that the United States Government agreed to pay for the said equipments at the end of thirty days from the date of delivery of said goods, but as a matter of fact said Moody & Co. were not paid until April, 1862, five months after the goods were delivered, thus inflicting great pecuniary loss on the said Moody & Co., as they had to borrow a large amount of money to meet their obligations involved in the amount of the contract, for which they had to pay interest at the rate of 10 per cent per annum, which was the rate prevalent in the West at the time.

In 1862, when their accounts were paid, in place of being paid in full, as was their just due and to which they were entitled, the United States commissioner at St. Louis arbitrarily cut down their contract in the sum of \$8,446.65, and for this amount the said Moody & Co. ask relief. They also ask for damages and interest, the facts in regard to which are fully set forth in affidavit of Oscar Kiser, of Keokuk, Iowa, senior member of the said firm of said Moody & Co., marked Exhibit D.

EXHIBIT D.

As a matter of history, early in the year 1861 a portion of these United States of America undertook to secede or set up what they called the Confederate States of America, and thus made declarations, and took up arms as soldiers of the so-called Confederate States of America, and made an armed attack on the United States Government, and to meet such an attack the President of these United States of America called out 75,000 volunteer troops early in the year 1861 to meet this supposed demand; but finding the insurrection or rebellion of larger dimensions than at first thought this number of men was deemed inadequate for the then demand or wants of the Government, and made further large calls for 500,000 more later on in this year, 1861, to which call people and citizens from all the Northern and Eastern States responded in large numbers, and in some parts of the country in much larger numbers than was expected or thought necessary. Volunteers were offered promptly in response to this call during summer of this year with regiments full, and among them the Third Iowa Cavalry Regiment, with full quota, by Col. Cyrus Bussey to General John C. Fremont, then (September, 1861) in command of this military department. This regiment was accepted and mustered into service, and had to be equipped, both men and horses, 1,140 strong. To do this General Fremont authorized Col. Cyrus Bussey to enter into contract with the firm of B. F. Moody & Co., at Keokuk, Iowa, to furnish all the equipments for the whole regiment, both men and horses, ready for field service. The firm of B. F. Moody & Co. obtained the contract on 30th day of September, 1861, in Keokuk, Iowa, and agreed, knowing the early need of troops in the field, to deliver the said goods, under contract, within forty days from this contract date, although having everything yet to have manufactured and buy to fill same, but before entering into said contract had made some inquiry as to what prices such goods could be bought at; after this entered into contract and at once went to Chicago, Cincinnati, and New York to buy the goods to fill this contract; at neither of which places could we get anybody to agree to furnish the men's clothing within that time at any price, as so many contracts in the meantime had been made to equip men from the several States. Finally we did get Boston parties to agree to furnish the goods, but at about 33 per cent higher figures than we had expected to pay for some of the goods. The time being short to fill this contract, we bought on best terms we could get prompt delivery, and filled the entire contract within the specified time given, on which the regiment went to the front at once, and that the entire outfit for both men and horses was fully up to the standard in quality, and received by the quartermaster of regiment and certified to by him.

These goods were delivered to the regiment on 9th and 10th of November, 1861, for which said goods were to be paid for in cash within thirty days, amounting to \$106,270, but in fact was not paid for until the following year, 1862, leaving the firm of B. F. Moody & Co. to carry this large sum on largely borrowed money, on which the current rate at that time was 10 per cent interest, all of which was difficult to do and had to be done, and when finally we did get our money our contract was attacked and arbitrarily cut down \$8,048.85; besides we find an error made against us for \$397.80, wherein they made us deliver 1,650 horse blankets and deducted 78

cents on each, when the facts were we never agreed to deliver more than 1,140, and so did as per contract. It may be asked why this matter has been let lay so long without effort to collect it; in answer to which I would state that soon after this all occurred the place where we kept the papers pertaining to this claim was in office of the storeroom where Mr. Moody had left them; the house caught fire and burned up all the papers we had; therefore, having nothing to show for the transaction left, it lay until last year. Learning that the whole transaction was of record in the Departments at Washington, and could get copies, and did so apply and get copies of same through Hon. Benton J. Hall, Congressman First Iowa district, believing in the justness of our claim and our rights that we should be made whole in the matter and yet be paid at contract price, with the addition of error in horse blankets and damages for delay for notes payment as agreed within thirty days after delivery of the goods and not doing so until in year 1862.

Claim as now made, viz:

1862.

United States of America to B. F. Moody & Co., Dr.

For arbitrarily cutting down contract.....	\$8, 048. 85
For error in 510 blankets, at 78 cents.....	397. 80
For damages, nonpayment when due.....	12, 000. 00
For damages since 1862 (twenty-five years), at 6 per cent.....	30, 000. 00
	50, 446. 65

I, Oscar Kiser, being duly sworn, do say that the above statement is correct to the best of my knowledge and belief.

OSCAR KISER.

Sworn to and subscribed before me this 11th day of December, 1886.

[SEAL.]

CLARENCE COMSTOCK, *Notary Public.*

Your committee, after a careful examination of all the testimony, are of the opinion that the United States commission in cutting down the prices it had agreed to pay by its agents to the said Moody & Co. was entirely unwarranted, and that by so doing a great wrong and serious pecuniary loss was entailed on the said firm of Moody & Co. It may be pertinently asked why this claim was not before presented for action by Congress. The reply is found in the sworn statement of Mr. Kiser, who states that soon after this transaction occurred the building in which the firm kept its papers caught fire, and that all the papers pertaining to this claim were burned and their evidence was lost; that subsequently they learned that there was a record of the transaction in the Department at Washington, and thus, by the courtesy of Hon. B. J. Hall, late a Member of Congress, they obtained a copy of the records during the year 1886. This bill was pending in the Forty-ninth Congress, but was not reached by the Committee on War claims. In view of all the facts in this case your committee recommend that the bill be amended by striking out of the fourth line the words "forty thousand dollars" and inserting the words "eight thousand four hundred and forty-six dollars and eighty-five cents," and that so amended the bill be passed.

MRS. ELIZABETH M. WILLIAMS.

FEBRUARY 25, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COLSON, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 5225.]

The Committee on Pensions, to whom was referred the bill (H. R. 5225) granting a pension to Elizabeth M. Williams, have considered the same and respectfully report as follows:

The claimant is the widow of William Williams, who served as a private in Captain Wear's Company of Tennessee Volunteers in the Florida Indian war of 1836. The records show that he was paid for twenty-five and one-half days' service, and it also appears that he was a pensioner during his lifetime at \$4 per month under certificate No. 7477, on account of a gunshot wound of left leg received in said service. After the soldier's death, which occurred November 10, 1876, his widow, the claimant, made an application for pension under the general law, alleging that his death was due to causes originating in the service, but owing to the long time which had elapsed since the war she was unable to furnish the necessary proof in support of her claim.

On September 3, 1892, she filed a claim under the Indian war service-pension act of July 27, 1892, but the same was rejected by the Pension Bureau on the ground that the service, as shown by the records, lacked four and one-half days of the period required by the said act to give title.

It appears from the papers on file at the Pension Bureau that the claimant married the soldier in 1845, and it is shown by the affidavits of S. Y. Minnis and J. H. Kelso, sr., residents of Monroe County, Tenn., that she is about 75 years old, in very feeble health, and dependent upon her children for support.

It may be added that the records of the Treasury Department show that the soldier's enrollment took place June 30, 1836, and his discharge July 31, 1836, a period of thirty-two days; but as other records show payment for twenty-five and one-half days only, it was held that the claim did not come within the scope of the service act.

The passage of the bill is respectfully recommended, with an amendment changing the spelling of the captain's name, in line 7, to "Ware."

S. W. PEEL.

FEBRUARY 25, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DOOLITTLE, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany H. R. 2684.]

The Committee on Indian Affairs, to whom was referred House bill 2684, having had the same under consideration, beg leave to submit the following report:

The bill provides that the Secretary of the Interior be directed to pay S. W. Peel \$5,000 out of the unexpended balance of what is known as the 35 per cent of the Old Settler Cherokee fund, now in the Treasury of the United States, for legal services rendered by the said Peel in defending certain contested claims filed in the Interior Department against that fund.

The Old Settler Cherokees are that part of the Cherokees in the Indian Territory that came West prior to the treaty of 1835. They were authorized under the treaty of 1846 to keep up their separate organization until all their unsettled business with the United States was closed. Having a large claim against the United States, in order to prepare for the prosecution of their said claim, by act of their council they set apart 35 per cent of whatever might be finally recovered on said claim to be used in defraying the expenses of such prosecution, and placed the management of the same in the hands of three of their number, called commissioners, of whom the most active was Joel M. Bryan, who looked continuously after it for over twenty years. In consequence of this long prosecution Mr. Bryan from time to time employed a great number of attorneys. As one would die or leave the case he would employ another in his stead. Such employment exhausted the entire 35 per cent set apart for that purpose. Finally the Supreme Court of the United States rendered judgment in favor of said Old Settler Cherokees for something over \$800,000. The 35 per cent of that amount set apart to pay the expenses of the prosecution was something over \$280,000.

The various attorneys at once filed their contracts and claims for payment out of the 35 per cent, which claims more than exhausted the entire amount. Mr. Bryan, knowing that some of the claimants had performed no service, and others little or none, employed Mr. Peel as attorney at law to oppose these various contested claims and protect the funds of the Indians. His first contract was to pay Mr. Peel \$5,000, provided the claim of the estate of E. John Ellis, which was over \$16,000, was reduced \$5,000 or more; but before the trial came off Mr. Peel agreed to defend all contested claims without additional compen-

sation. This he did. All the contested claims amounted in the aggregate to nearly \$400,000. Mr. Peel appeared before the honorable Commissioner of Indian Affairs, made informal oral argument, and filed a very elaborate brief in writing. In his decision the Commissioner rejected and disallowed them all, except the one in favor of the estate of E. John Ellis, which he reduced from \$16,000 to \$4,000. So instead of its being reduced \$5,000, as agreed in Mr. Peel's contract, it was reduced over \$12,000, a saving of that much to the Indians. All these cases were appealed to the Secretary of the Interior, and were reargued. Mr. Peel again appeared against all the contested claims, and, upon a final decision of the Secretary, the claim of the estate of E. John Ellis was left at \$4,000, the same amount as found by the Commissioner. Many of the others the Secretary disapproved and rejected entirely. Out of the entire amount claimed, being about \$400,000, the Secretary on the final decision allowed only \$26,000, which made a saving to the Indians of about \$375,000.

The sworn statement of Mr. Peel, hereto attached as a part of this report, shows clearly that he was employed by the commissioners, Joel L. Baugh and Joel M. Bryan, to defend all the contested claims. Also the letter of the Secretary of the Interior, which is also attached as a part of this report, shows conclusively that Mr. Peel appeared in his Department in opposition to the contested claims and rendered good service. The statute making the appropriation only authorized the Secretary to adjust and pay out of the 35 per cent such attorneys' fees as were just and equitably due for services rendered in the prosecution of the original suit. Mr. Peel's employment and service not being for the prosecution of the suit, but for defending contested claims against the funds out of which to pay attorneys, therefore he could not, under the technical wording of the statute, pay Mr. Peel for his service.

Finding that Mr. Peel rendered the Indians good service, and contributed to saving for them about \$100,000 of the 35 per cent, and that he fulfilled his contract and more, and that he can not be paid without the legislation proposed in the bill, your committee recommend that the bill pass without amendment.

DISTRICT OF COLUMBIA, *Washington, D. C.*:

I, S. W. Peel, after being duly sworn, depose and say:

That the Old Settler Cherokee Indians are that part of the Cherokee tribe of Indians that emigrated west of the Mississippi River prior to the treaty of 1835 and settled in what is now the Indian Territory. That said Indians claimed that under certain treaties the United States was indebted to them in a large sum of money. That on or about the — day of —, 1890 or 1891, Congress passed an act authorizing said Indians to bring suit against the Government, in the courts, for their said claim. That before this date, by various resolutions of their council, they set apart 35 per cent of whatever might ultimately be recovered to defray the expenses for the prosecution of their said claim, and appointed three commissioners of their number, the most prominent and active one being Joel M. Bryan. Said council placed this 35 per cent in the hands of these commissioners, with authority to use the same, or so much as might be necessary, to employ attorneys to prosecute their said claim.

The prosecution continued for over twenty years, and during that time the said Bryan employed, from time to time, a great many different attorneys. That finally the Supreme Court of the United States rendered judgment against the United States in favor of said Old Settler Cherokee Indians for something over \$800,000. Soon thereafter Congress made the proper appropriation to pay said judgment, and in the act authorized the Commissioner of Indian Affairs to withhold enough from distribution to pay for such legal services and expenses as were justly due for the prose-

cution of the suit. Soon thereafter the various attorneys who claimed compensation for services rendered in the prosecution of said suit filed their claims before the Commissioner of Indian Affairs, to be paid out of the 35 per cent set aside by the Old Settler council for that purpose, many of which claims were opposed and contested by J. M. Bryan, the commissioner for said Indians; and, to aid in conducting the defense, he and one J. L. Baugh, who was acting with him as assistant commissioner, employed me as an attorney in the case, and agreed to pay me \$5,000 upon condition that I succeeded in reducing a claim of the estate of E. John Ellis \$5,000 or more, said claim being for something over \$16,000. Then afterwards, and before the trial came on, I agreed to defend all the contested claims without additional compensation. The claims that were filed and contested are as follows:

J. J. Newall claimed 2½ per cent, or about	\$20, 000
Mrs. Belva Lockwood claimed 10 per cent, or about.....	80, 000
Richard Wintersmith claimed 25 per cent, or about.....	200, 000
J. M. Douglas claimed	2, 500
S. C. Henningway claimed about.....	2, 500
W. S. Peabody claimed 8 per cent, or about.....	64, 000
E. John Ellis estate claimed 2 per cent, or about.....	16, 000
Aggregating	385, 000

This amount exceeds the 35 per cent available for that purpose. In accordance with my contract I appeared before the honorable Commissioner of Indian Affairs and filed my brief in the case. The Commissioner, after due consideration, rejected and disallowed the claim of J. J. Newall, Mrs. Belva Lockwood, Richard Wintersmith, J. M. Douglas, W. S. Peabody, and, as I remember, the claim of Mr. Henningway. On the claim of the estate of E. John Ellis he allowed \$4,000. The parties appealed to the Secretary of the Interior. I again appeared and made an oral argument before the Secretary and the Hon. John I. Hall, Assistant Attorney-General of the Interior Department. The claimants also appeared, some in person and others by attorneys. After due consideration the Secretary awarded as follows:

To Newall & Lockwood.....	\$10, 000
To W. S. Peabody	8, 000
To J. M. Douglas	2, 500
To S. C. Henningway	1, 500
To E. John Ellis estate.....	4, 000

He disallowed the claim of Richard Wintersmith.

Total allowed.....	26, 000
Leaving disallowed on said claims, \$359,000.	

That after the payment of the \$26,000 allowed as above, and the uncontested claims, there remains unexpended of the 35 per cent something near \$100,000 that will be paid out to the Old Settler Cherokees, if not otherwise used. Out of this unexpended balance I ask to be paid for my services. The claim of the estate of E. John Ellis was reduced over \$12,000, and under that item alone the amount claimed by me would be due. I further state that I have not been paid my said fee, or any part thereof.

S. W. PEEL.

Subscribed and sworn to before me this 5th day of February, 1896.

[SEAL.]

DAVID E. MOORE, *Notary Public*.

DEPARTMENT OF THE INTERIOR,
Washington, February 4, 1896.

SIR: I have the honor to acknowledge the receipt of your communication of 24th instant and accompanying H. H., "A bill for relief of S. W. Peel for services rendered the Old Settler Cherokees."

In response thereto I transmit herewith copy of a communication of 30th instant from the Commissioner of Indian Affairs, to whom your letter was referred, and you are further advised that Mr. Peel appeared before the Department in opposition to the allowance of the contested claim.

Very respectfully,

HOKE SMITH, *Secretary*.

Hon. W. H. DOOLITTLE,
House of Representatives.

RITA STINE.

FEBRUARY 25, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CROWTHER, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 2813.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2813) granting a pension to Rita Stine, of Memphis, Mo., invalid and helpless orphan daughter of George W. Stine, late first lieutenant Company I, Twenty-first Missouri Infantry Volunteers, at the rate of \$20 per month, having carefully investigated all the facts and circumstances, respectfully submit the following:

George W. Stine enlisted as corporal and was mustered into Captain Harle's Company, First Northeastern Missouri Infantry Volunteers, and transferred to Company I, Twenty-first Missouri Infantry, February 12, 1862; promoted to second lieutenant July 29, 1862, and as first lieutenant January 12, 1863, and honorably mustered out and discharged December 5, 1864.

The evidence shows that Rita Stine, a daughter of the soldier, has been helpless from infancy from hydrocephalus, and that her limbs are now rigid and out of shape, and that she is totally blind and requires almost constant care and attention.

Her mother died about 1883 from overwork and exhaustion in caring for and lifting this helpless invalid child, then 14 years of age. Her father, the soldier, died in February, 1888, and since then his small estate has been exhausted in paying at the rate of \$20 per month for the care and keeping of his orphan daughter.

On March 7, 1893, there was only \$84.22½ of his estate remaining, and since that was expended the county (Scotland) has contributed \$10, the Grand Army of the Republic post \$3, and the Christian Endeavor Society of the Presbyterian Church at Memphis, Mo., the remainder necessary to provide for Rita Stine. She has but two relatives living, an uncle in Missouri and a sister, but both too poor to contribute to her support.

In view of all the facts stated, which are thoroughly supported and shown by reliable testimony, your committee believe this soldier's child should not be turned into the poorhouse or left dependent entirely on the charity of the world, and recommend that the bill be amended by striking out the word "twenty," in line 8, and insert the word "seventeen" in lieu thereof, and that the title of the bill be amended by striking out all after the word "Stine," and as amended that the bill do pass.

HANNAH YAZELL.

FEBRUARY 25, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. LAYTON, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 1171.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1171) to pension Hannah Yazell, having carefully examined all the evidence in the case, report as follows:

James Yazell, who was the husband of this claimant, served from October 31, 1861, to July 24, 1865. He died October 26, 1893, from disease of heart, for which pensioned. Mrs. Yazell filed claims in the Pension Office under both old and new law, but she is informed that her claim can not be admitted there without proof of the divorce of the soldier from his first wife, and on this point she is unable to furnish evidence which is satisfactory to the officials of the Pension Office.

She was married to the soldier April 8, 1873, with the understanding that he had been divorced from his former wife, and lived with him as his wife and bore him six children. She is unable to find any record of the divorce, but the evidence shows that after the divorce both the soldier and his former wife remarried, the soldier having procured a license, which he could not have done where all the parties were known without satisfactory evidence of the dissolution of the prior marriage bonds.

The soldier and this claimant, as well as his former wife and her husband, appear to have lived in the same community, respected by all.

Your committee are satisfied from the evidence that the soldier was divorced from his former wife, and that his marriage to the claimant was legal. The former wife of soldier died five or six years ago, so there is no possibility of her filing a claim as widow.

The bill, in the opinion of the committee, is a meritorious one and should pass, and the committee so recommend.

WILLIAM W. FRENCH.

FEBRUARY 25, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SULLOWAY, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany S. 137.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 137) granting an increase of pension to William W. French, quote from the report of the Senate Committee on Pensions the following, which they adopt as their own:

Claimant enlisted in the Sixth Regiment New Hampshire Volunteer Infantry on the 15th day of October, 1861, to serve three years. He was engaged in the battle at Camden, N. C., April 19, 1862; Chantilly, Md., September 1, 1862; South Mountain, Maryland, September 13, 1862; Antietam, Md., September 17, 1862, and was wounded in the thigh at the battle of Fredericksburg, Va., December 13, 1862. He was discharged on the 2d day of September, 1863, for total disability, the surgeon certifying (almost a year after the wound was received) that soldier had not the slightest use of his limb, from which the ball has never been extracted. From the day he received the wound until the present soldier has been a great sufferer, and is now a complete physical and mental wreck. He was first pensioned at \$6 per month, which was increased to \$8, \$15, \$18, \$24, \$30, and \$36, the pension being granted for gunshot wound of left thigh, causing nervous prostration.

Soldier has been confined to his bed for over five years, requiring the constant attendance of another person. He has been examined by many physicians and medical boards, and has almost uniformly been rated at \$72 per month. At three different times the medical board at White River Junction, Vt., found him suffering from gunshot wound and resulting nervous prostration and insanity. The only medical testimony that throws the least doubt upon the case is that of a single member of this same board, who examined the soldier at his home, and ventured the suggestion that the nervous prostration was possibly not due to the wound. As the soldier was pensioned for nervous prostration, and this same physician had signed certificates with his associates on the board recognizing nervous prostration as a result of the wound, the value of his adverse testimony can easily be estimated.

Dr. James A. Davis, of Lebanon, N. H., a skillful and experienced physician, certified that the nervous prostration was constantly increasing, and that it undoubtedly arose from the gunshot wound.

Dr. James A. Leeb, of Canaan, N. H., gave an affidavit in the case, in which he said:

"I have practiced medicine for more than eleven years, and have been attending physician to the applicant since August, 1888. He was at that time suffering from nervous prostration, which was so severe as to produce mania in a mild form, and has been a constant sufferer ever since I first saw him. At times the pain is intense. In consequence of this nervous prostration he has been confined to his bed more than four years, and has not been dressed since May 16, 1891, and therefore requires the constant aid and attendance of another person, and has for more than five years. This condition of helplessness I believe to be wholly due to the nervous prostration caused by gunshot wound in left thigh, received at the battle of Fredericksburg, as stated in my previous affidavits, and for which applicant is now pensioned. This affidavit is written by me from my own personal examination, and was not prepared or dictated by any other person."

In April, 1895, soldier applied for increase, asking that the examination be made at his home, but notwithstanding the history of the case and the conclusive opinions of physicians and medical boards who had examined this man, a medical examiner of the Pension Bureau disposed of the case in these words:

"The evidence mentioned does not warrant another medical examination looking to increase from \$36 to \$50 or \$72 per month for gunshot wound of left thigh, causing nervous prostration, for the reason that it does not show that claimant's helplessness is due entirely to said wound. He is shown by said testimony and medical certificates in the case to be suffering from mental impairment, which can not be accepted as a result of pensioned wound and results. Any nervous prostration arising from the wound appears to have disappeared."

As a result of this opinion, an examination was denied by the Bureau, under date of September 13, 1895.

Comment is unnecessary on the medical statement upon which the action of the Bureau was based. It is well known to medical men of experience that mania frequently results from protracted nervous prostration, and there is not in the entire case a word or a sentence which justifies the statement that "any nervous prostration arising from the wound appears to have disappeared." On the contrary, it is conclusively shown that the nervous condition has steadily progressed, and is now more severe than ever before.

Your committee are of the opinion that this case belongs to the class which, under the general laws, are entitled to \$72 per month. This bill asks that the pension be increased from \$36 to \$50, and we therefore report the bill back favorably, with a recommendation that it pass.

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THOMAS M. SCOTT.

FEBRUARY 25, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ANDREWS, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 6132.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6132) granting an increase of pension to Thomas M. Scott, late Company H, Seventy-eighth Illinois Volunteer Infantry, having carefully examined the evidence relating thereto, respectfully submit the following report:

Said soldier served from September 1, 1862, to June 17, 1865, and was honorably discharged. He was virtually in command of his company as captain from September 20, 1863, to February 15, 1865, but could not muster for want of men.

The prisoner-of-war records show that he was captured February 15, 1865, at Seneca, S. C.; that he was paroled March 1, 1865, and reported at College Green Barracks, Md., March 7, 1865; that he was sent to Benton Barracks, Mo., March 8, 1865, and reported there March 14, 1865.

Under the provisions of the act of Congress approved June 3, 1884, and the acts amendatory thereof, he is considered by the War Department as commissioned to the grade of captain to take effect from March 20, 1865. He drew pay as captain from that date to June 17, 1865.

Both feet and ankles were seriously injured while he was a paroled prisoner, but a few days before he was mustered as captain, as per dates indicated above. He is now pensioned for those injuries at \$8 per month, but would have received \$20 per month if he had been mustered as captain.

Your committee believe that his service, the nature of his injuries, and his present physical and financial condition justly entitle him to an increase from \$8 to \$20 per month, and therefore recommend the passage of the bill.

HIRAM P. PAULEY.

FEBRUARY 25, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. KIRKPATRICK, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 986.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 986) for the relief of Hiram P. Pauley, submit the following report:

The affiant, Hiram P. Pauley, was a member of Capt. Marion Blair's company of what was known as the Indiana Legion, a militia organization of the State of Indiana. During the Morgan raid the company was ordered to Indianapolis to prepare to meet the invading army. It went to the United States arsenal to secure arms, and the affiant among others was ordered to open the boxes containing arms for the company, and while so engaged in lifting a box of guns, received a serious injury producing hernia of a serious character. From this injury the claimant has never since recovered and by reason thereof is rendered totally incapable of performing manual labor. He is now old and destitute. He can not be pensioned under the existing law for the reason that he was never mustered into the United States service.

Your committee believe that inasmuch as the claimant received his injury while in an organized company preparing to defend the country against an invading army he has just claims on that country for relief. They therefore report the bill back to the House with the recommendation that it be amended by striking out all after the word "pension," in line 6, and adding the words "at the rate of twelve dollars per month," and that the bill as amended do pass.



HATTIE A. BEACH.

FEBRUARY 25, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. POOLE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 4903.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4903) granting a pension to the helpless child of Erastus D. Beach, late a private in Company H, One hundred and forty-third New York Volunteers, after having considered the same respectfully report:

Erastus D. Beach, enlisted August 2, 1862, as private in Company H, One hundred and forty-third New York Infantry, was discharged March 9, 1863, and died March 20, of the same year. Soldier was married to Eleanor Schoonmaker December 16, 1849, and left surviving him his widow and four children under 16 years of age who were pensioned from December 23, 1864, the mother having remarried. Hattie A. Beach became 16 years of age December 9, 1877, when her pension ceased. Hattie A. Beach filed claim for pension December 27, 1890, as the permanently helpless child of Erastus D. Beach, under the act of June 27, 1890, which claim was rejected May 19, 1893, on the ground that claimant was over 16 years of age at date of the passage of the act of June 27, 1890.

Claim was reopened on testimony of Dr. George F. Perry, filed April 21, 1894:

That he saw Hattie A. Beach professionally, about eighteen years ago, April, 1877, for injury of the left knee. I then advised her to go to the hospital for treatment. She then had but little use of her limb, and the disability has proven permanent. She can walk after a fashion by aid of a crutch. Aside from this she has poor health so that she is unable to earn a living.

Claim was again rejected October 11, 1894, on the ground that claimant was not totally and permanently helpless. Claimant once more appealed to the Bureau of Pensions February 6, 1895, alleging "that she is at the present time, and was December 27, 1890, permanently helpless from injury to left knee." This claim was supported by affidavits of Isaac M. Harris and George H. Calkins, neighbors, whose testimony is that she is a helpless cripple, dependent entirely for support upon the stepfather, which has now been taken away; that she is unable to work and will become a public charge unless cared for by the Government, who her father gave his life to maintain.

The claim was once more rejected on the ground that the evidence was not sufficient to warrant a reopening of the claim. It is not alleged by the Department that the affidavits were not by persons of character and standing in the community where they lived, and it is difficult to

conceive what evidence would be accepted in establishing the facts of the helpless cripple who, while managing to walk some by aid of crutches, is shown to be helpless and utterly unable to earn a living. The intent of Congress when it provided that pension should continue to permanently helpless children of deceased soldiers evidently was to care for just such children, and your committee therefore recommend the passage of the bill with an amendment, as follows:

Strike out all after the word "pension" in line 4, and insert the following: "At the rate of \$12 a month to Hattie A. Beach, child of Erastus D. Beach, late private of Company H, One hundred and forty-third Regiment, New York Infantry Volunteers."



LAMBERT L. MULFORD.

FEBRUARY 25, 1896.--Committed to the Committee of the Whole House and ordered to be printed.

Mr. POOLE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 4753.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4753) granting an increase of pension to Lambert L. Mulford, late of Company A, Second New Jersey Cavalry Volunteers, and first lieutenant, Third United States Cavalry, respectfully report as follows:

Soldier enlisted August 28, 1863, as second lieutenant, Company K, Second New Jersey Cavalry; promoted to captain Company A of same regiment September 1, 1864, and mustered out with company November 1, 1865. He was appointed second lieutenant Third United States Cavalry February 23, 1866; promoted to first lieutenant December 24, 1866, and honorably discharged January 1, 1871, after eight years of almost continuous service.

He filed claim for pension June 28, 1894, alleging rheumatism from exposure in frontier service and resulting paralysis of right side, totally incapacitating him for any kind of manual labor. He has a hospital record in service for rheumatism and a number of other disabilities, and Dr. B. A. Waddington, of the highest professional standing, testifies to treating him for rheumatism ever since discharged, and that the same is the direct and undoubted cause of his present helplessness from paralysis. He says:

His rheumatism is of a chronic nature and peculiar, in that it produces cramps, always leaving an ecchymosed condition of the areola tissue of the parts affected. On the night of November 2, 1891, he had an attack of these cramps, and getting up to bathe himself, he fell upon the floor with hemiplegia. I saw him in an hour after with partial loss of speech, motion, consciousness, etc., from which he has never recovered, and his rheumatism continues in spite of treatment, rendering him entirely unfit to make a livelihood, and rendering him, in my opinion, deserving a liberal pension from the Government.

The medical examinations by pension boards show that he is so disabled by paralysis that he can walk only by the aid of a cane and assistant, and that he is totally incapacitated for performing manual labor, and that he will gradually grow worse.

He is pensioned at \$12 under act of June 27, 1890, his claim under the general law being rejected on the ground that his paralysis can not be accepted as the result of rheumatism.

Your committee is of opinion that the claim is meritorious and should have been allowed, and that from the evidence the paralysis is a result of disabilities contracted in service, as no other cause is shown and claimant's habits are temperate and exemplary. The claimant is poor, helpless, and requires a constant attendant.

Your committee therefore recommend that the bill be amended by striking out the word "fifty," in line 7, and inserting "thirty" in lieu thereof, and by striking out all after the word "him," in line 8, and as amended that the bill do pass.

ELIZABETH SADLER.

FEBRUARY 25, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WOOD, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 3421.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 3421) granting a pension to Elizabeth Sadler, submit the following report:

The committee, having carefully examined the evidence in support of this bill, find the following undisputed and uncontradicted facts:

James Sadler was enrolled September 12, 1861, in Company G, Forty-second Illinois Volunteers; was discharged to join Fourth United States Cavalry, in which he served until August 20, 1864. On the muster rolls of Fourth United States Cavalry for November and December, 1864, he is dropped as "Missing in action since August 20, 1864; supposed to be dead." No record of desertion or dishonorable conduct is against him. He has not been heard from since August 20, 1864.

Elizabeth Sadler was the only sister of James Sadler; parents both dead. She was dependent on James Sadler, her only brother, for her support before the war and during the war. He sent her money regularly during his service. Since the war she has been so broken down in health that she is unable to labor, and is dependent upon friends—she has no relatives—for her entire support. She has no means or property. At the date of soldier's death she was 19 years old. The soldier left no widow, child, or children.

She made application for pension, but it was rejected on the ground that then she was not pensionable—that she was 19 years old at date of soldier's death.

The committee, on these facts, recommend the passage of the bill.

ARMINDA WHITE.

FEBRUARY 25, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. KERR, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 2358.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2358) for the relief of Arminda White, beg leave to report:

The claimant and the soldier were married in 1849, and had a number of children at the outbreak of the war in 1861. There is no question, and the proof is ample as to the marriage, also the proof is ample that the claimant has never been divorced from the soldier or has remarried.

Israel White, the claimant's husband, enlisted in 1861 in Company A, Twenty-fifth Regiment Ohio Volunteer Infantry, and was promoted before the close of the war to be a captain in same regiment. He was a good soldier and officer; was three times wounded in the service, once severely; he was mustered out with his regiment in South Carolina in 1865, but remained in South Carolina until the spring of 1866, when, as the testimony shows, he returned to his home at St. Clairsville, Ohio, where his wife and children then lived. After remaining at home a short time he returned to Columbia, S. C., to engage in business there, as his wife testifies. A comrade, Hezekiah Thomas, also returned to Columbia with Captain White. This was in June of 1866.

Mr. Thomas remained there a short time only and left Columbia in February, 1867, and returned to Ohio. His testimony was taken and is on file, as all of the testimony referred to in this report is, in pension claim No. 439363 of Mrs. White.

After Mr. Thomas left Captain White, Mrs. White testifies that she heard from her husband, that he had sold out his business in Columbia, and was coming home. Since that time, now more than twenty-eight years, Mrs. White testifies that she has never heard from her husband. Testimony was taken by special examiner at St. Clairsville, and, so far as the several witnesses knew, among them the captain of Company A, and afterwards lieutenant-colonel of the regiment, and other old citizens, no one has ever heard from Captain White since March, 1867.

Mrs. White testifies that she knows nothing of her husband; has never heard from him since 1867. He was a member, as Colonel Charlesworth testifies, of the Masonic fraternity, and he testifies that they have never heard from him.

Captain White was a wounded soldier, entitled under the old law to a pension; he has never made application for one. If living, he would now be 75 years old. The Pension Bureau sent a special examiner to

Columbia, S. C., and that examiner reports that he can find no one there that has heard of Captain White since 1867, though he found a number who knew him in 1866, and the winter of that year.

One witness, Dr. J. F. Enson, at Columbia, testifies that Captain White bade good-bye in March, 1867, and left Columbia, his objective point being Ohio.

Persons employed by Captain White in his business testify to his leaving Columbia about that time, and that he has never been heard from or of since that time. Diligent inquiry has been made, but no word from him since 1867.

Captain White had sold out his business in Columbia and presumably had money on his person. He had been keeping a restaurant and saloon, and in the unsettled condition of things at that time, it is the belief of his family and friends that he either met with some accident or was killed for the money on his person.

This pension claim, No. 439363, was rejected November 14, 1895, on the ground, and solely on the ground, that the claimant was not able to make proof of the death of her husband. Her claim is under the act of June 27, 1890.

Mrs. White is now an old woman, near 70 years of age; she has raised the children of this soldier; she lives, by permission of one of her sons, himself a poor man, in a house that the son owns, rent free. She keeps a few boarders; she has no income of any kind, or from any direction but from her own earnings in keeping these boarders; she is old, in poor health, and needs assistance. She has had some charitable assistance from the Grand Army of the Republic.

Your committee, under the circumstances, recommend that a pension be granted her, and that her pension date from the filing of her claim as above stated, and that the Secretary of the Interior be authorized and required to place her on the pension roll, subject to the limitations of the law, her pension to cease, if at any time her husband should apply for pension, or any proof that he is still living be found.

The committee therefore recommend the passage of the bill as amended.

AMENDING SECTION 1754, REVISED STATUTES.

FEBRUARY 25, 1896.—Referred to the House Calendar and ordered to be printed.

Mr. VAN VOORHIS, from the Committee on Reform in the Civil Service,
submitted the following

REPORT:

[To accompany H. R. 5635.]

The Committee on Reform in the Civil Service, to whom was referred the bill (H. R. 5635) to amend section 1754 of Revised Statutes of the United States, report the same back to the House with a recommendation that it do pass, amended by inserting the word "necessary," after the word "capacity," in the last line of the bill.

Under existing law the class to which preference is given in appointments is extremely limited, so much so that in the year 1894 there were but 14 of that class placed upon the eligible list for the entire classified service of the United States and only 10 secured appointments. In the year 1893 15 were placed on the eligible list and 13 received appointments. From June 30, 1894, to January 1, 1896, only 4 were appointed in the departmental service.

After the lapse of thirty years from the close of the late war, and in view of the widely prevailing sense of gratitude and generosity toward the surviving defenders of the Union, it is believed that the extension of the preference, not to interfere with the surviving remnant who now enjoy the preference, but as a second preferred class, to all honorably discharged soldiers and sailors of the late war would be an act of justice which the people of the United States, in grateful recognition of the services and sacrifices of those who served in the Army and Navy in the war for the Union, will highly commend.

It is believed that the average age of the surviving Union soldiers is about 60 years, while the average age of those passing examinations is about 27 years. It is therefore apparent that the number of this class who will pass the merit test under our civil service rules will be very limited.

The extension of a preference to the widows of soldiers and sailors who were honorably discharged from the service of the United States would be a recognition of a meritorious class to whom the patriotic women of America are quite willing to concede the slight advantage which will inure to them through the proposed preference.

In the nature of the case only a comparatively small number of this class will be able to enter the civil service. From June 30, 1894, to January 1, 1896, but one woman was appointed from the clerk and copyist list in the departmental service, so that to give precedence to those who successfully pass the examination is only putting the law in harmony with the generous sentiment and common feeling of the country, without the slightest danger of any impairment of the public service.

HELEN M. JACOB.

FEBRUARY 25, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HARDY, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 149.]

The Committee on Pensions, to whom was referred the bill (S. 149) granting a pension to Helen M. Jacob, have examined the same and respectfully report as follows:

The facts, as sworn to by John C. Williams, a resident of Cleveland, Ohio, are as follows:

Helen M. Jacob was married to Benjamin Oden West December 12, 1850; said Benjamin Oden West enlisted January 28, 1847, in the Mexican war, at Washington, D. C., and he was honorably discharged on or about November 6, 1847; said Benjamin Oden West deceased December 3, 1857, and he (Williams) was informed and has always understood that it was from the disease contracted while in service in the Mexican war; he left surviving him his widow, Helen M. West, and two children, Benjamin West and Helen West; said Helen M. West drew a pension as his widow from the date of his death to her marriage to William W. Jacob, when her pension ceased; said William W. Jacob died on or about October 18, 1872, at Washington, D. C., and left surviving him his said widow Helen M. West Jacob, and left nothing for her support; she is now residing at Rochester, Ind., and is entirely dependent for her support upon what is given her by others; she has no income or no property to this affiant's knowledge, and she is 65 years of age, and further affiant saith not.

The above facts are also corroborated by William J. Cragin, a physician in active practice for fifty-seven years:

He knows and has been acquainted with Mrs. Helen M. Jacob during the past thirty-five years or longer; he knew her when she was the wife of Benjamin Oden West, and knows that the said Benjamin Oden West is now deceased, and knew she married William W. Jacob, and said William W. Jacob is now deceased. He also knows that prior to her marriage to William W. Jacob she was without means of support and was dependent on her own exertions for the support of herself and family, and also knew that said William W. Jacob died, leaving her dependent and without means of support for herself and children. He further knows she is now a widow without means of support, and that she is dependent on her children for a livelihood. She has always been active and industrious, energetic and faithful in her maternal duties while rearing two families of children, and he can truly say she now merits the attention and support of her country as the widow of one of its defenders, who succumbed to disease contracted in the line of his military duties. The remarriage of the claimant occurred April 17, 1861.

The committee therefore recommend the passage of the bill with an amendment fixing the rate of pension at \$12 per month.

CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS.

FEBRUARY 25, 1896.—Referred to the House Calendar and ordered to be printed.

Mr. BRODERICK, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. Res. 96.]

The Committee on the Judiciary, to whom was referred House joint resolution No. 96, have had the same under consideration and make the following report:

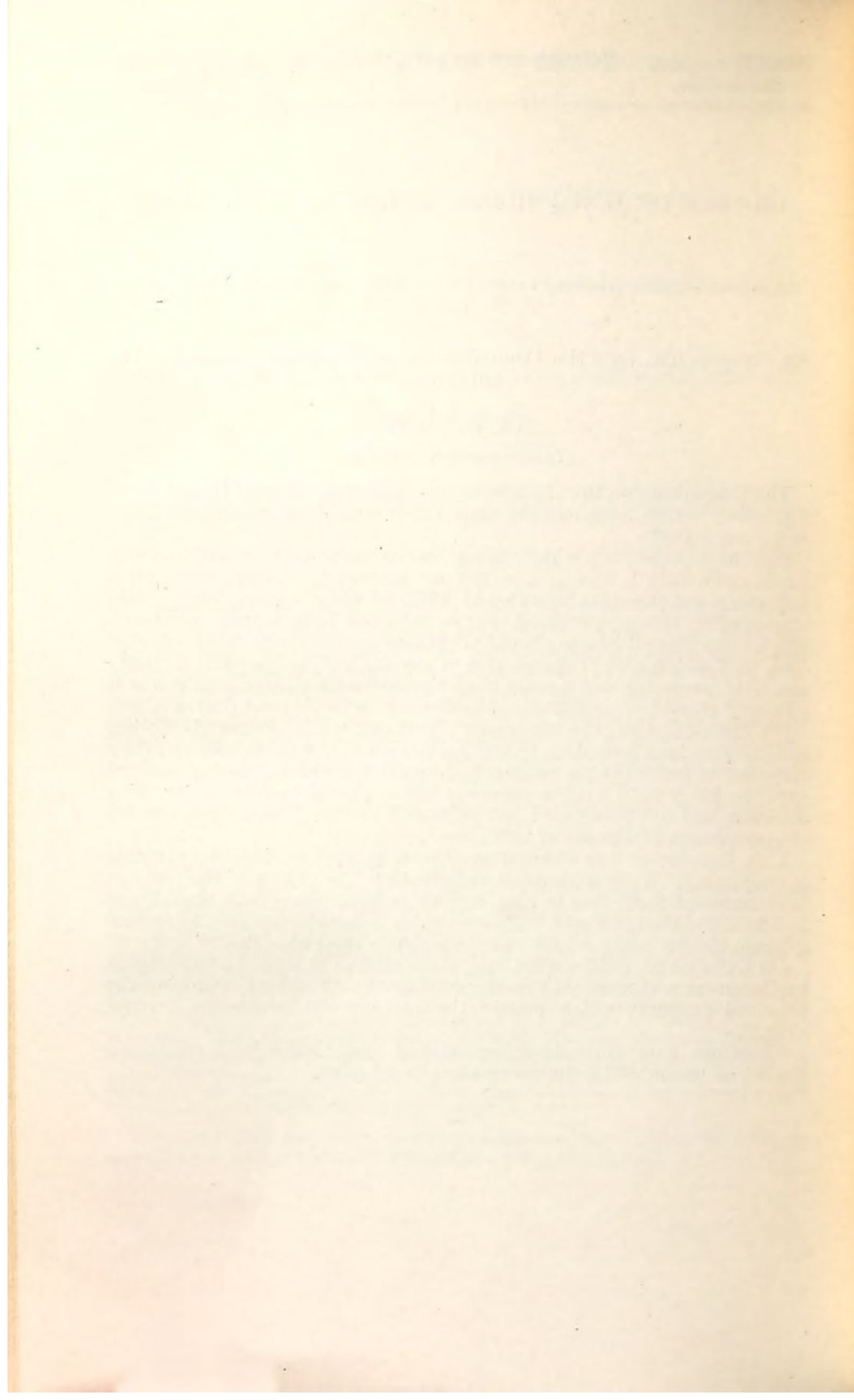
The first legislation which bears on the question was had in 1862, when, upon July 1, was passed the act commonly known as the anti-polygamy act (Revised Statutes of 1878, 2d edition, page 333), which, among other things, provided that no religious body within any Territory of the United States should hold more than \$50,000 worth of property, and which also provided that if any such organization did obtain and hold property worth more than the above-mentioned sum the said property should be forfeited and escheated to the United States.

On March 3, 1887, the act commonly known as the Edmunds-Tucker Act became law, according to the provisions of which the affairs of the corporation known as the "Church of Jesus Christ of Latter-day Saints" were to be wound up, its property to be placed in the hands of a receiver, and to be forfeited and escheated to the United States under the provisions of the act of 1862.

This legislation was enacted to discourage and abolish the practice of polygamy. Your committee believe that the object of the law has been accomplished, that the practice of polygamy has been abandoned in Utah, and that it would be justice to an industrious people to restore to them the property which they donated to their church.

On October 25, 1893, a joint resolution similar to this one was passed by Congress and received the approval of the President, restoring the personal property which was in the custody of the receiver to said church.

Therefore your committee recommend that House joint resolution No. 96, as amended by the committee, be adopted.



SPEECHES OF AMBASSADOR THOMAS F. BAYARD.

FEBRUARY 25, 1896.—Referred to the House Calendar and ordered to be printed.

Mr. HITT, from the Committee on Foreign Affairs, submitted the following

R E P O R T:

[To accompany H. Res. 179.]

The Committee on Foreign Affairs, to whom was referred the preamble and resolution offered December 10, 1895, by the Hon. Samuel W. McCall, citing speeches made by Hon. Thomas F. Bayard, ambassador of the United States to Great Britain, on the 2d day of August, 1895, and the 7th day of November, 1895, and requesting the President to inform the House whether Ambassador Bayard made said speeches; and, if so, what steps he had taken to recall or censure him; also the preamble and resolution offered December 10, 1895, by the Hon. William E. Barrett, and adopted on that day, citing the same speeches and directing the committee to ascertain whether such statements have been publicly made; and, if so, to report to the House such action as shall be proper in the premises, reported back the first-named preamble and resolution on the 28th of December, 1895, and recommended the adoption of a resolution requesting the President to communicate any information or correspondence on the subject, which resolution was adopted by the House. On the 20th of January, 1896, the President transmitted to the House, with a message, a report from the Secretary of State and correspondence, which were referred to this committee, by which it appears that Ambassador Bayard did make said speeches and that no action had been taken thereon. The committee, therefore, respectfully report the following preamble and resolutions and recommend their adoption:

Whereas Thomas F. Bayard, ambassador of the United States to Great Britain, said in a public speech delivered in Boston, England, on August second, eighteen hundred and ninety-five, as follows:

“He (the President of the United States) stands in the midst of a strong, self-confident, and oftentimes, violent people—men who seek to have their own way, and I tell you plainly that it takes a real man to govern the people of the United States;” and

Whereas Thomas F. Bayard, ambassador of the United States to Great Britain, said in a public speech delivered in Edinburgh, Scotland, on November seventh, eighteen hundred and ninety-five, as follows:

“In my own country I have witnessed the insatiable growth of that form of state socialism styled ‘protection,’ which I believe has done more to foster class legislation and create inequality of fortune, to corrupt public life, to banish men of independent mind and character from the public councils, to lower the tone of national representation, blunt public conscience, create false standards in the popular mind, divorce ethics from politics, and place politics upon the low level of a mercenary scramble than any other single cause. * * *

“It (the said policy of protection) has unhesitatingly allied itself with every policy which tends to commercial isolation, dangerously depletes the Treasury, and saps

the popular conscience by schemes of corrupting favor and largesse to special classes whose support is thereby attracted. Thus it has done so much to throw legislation into the political market, where jobbers and chafferers take the place of statesmen:" Therefore, be it

Resolved, That it is the sense of the House of Representatives that Thomas F. Bayard, ambassador of the United States to Great Britain, in publicly using the language above quoted has committed an offense against diplomatic propriety and an abuse of the privileges of his exalted position which should make him the representative of the whole country and not of any political party. Such utterances are wholly inconsistent with that prudent, delicate, and scrupulous reserve which he, himself, while Secretary of State, enjoined upon all diplomatic agents of the United States. In one speech he affronts the great body of his countrymen who believe in the policy of protection. In the other speech he offends all his countrymen who believe that Americans are capable of self-government. Therefore, as the immediate representative of the American people, and in their name, we condemn and censure the said utterances of Thomas F. Bayard.

Resolved further, That in the opinion of the House of Representatives public speeches by our diplomatic or consular officers abroad which display partisanship or which condemn any political party or party policy or organization of citizens in the United States are in dereliction of the duty of such officers, impair their usefulness as public servants, and diminish the confidence which they should always command at home and abroad.



CENSURE OF AMBASSADOR THOMAS F. BAYARD.

FEBRUARY 26, 1896.—Referred to the House Calendar and ordered to be printed.

Mr. DINSMORE, from the Committee on Foreign Affairs, submitted the following as the

VIEWS OF THE MINORITY:

[To accompany House Res. No. 179.]

The undersigned, being a minority of the Committee on Foreign Affairs, to which committee were referred certain resolutions proposing the censure of Thomas F. Bayard, ambassador of the United States to Great Britain, on account of expressions contained in a speech at Edinburgh, Scotland, and another speech at Boston, England, respectfully dissent from the views of the majority as set forth in their report and resolutions, and submit that the resolutions ought not to pass.

In their opinion there is nothing contained in either of the speeches mentioned that calls for or justifies any censure by Congress.

The proposed action is unwarranted and unprecedented. Representatives of the United States in foreign countries are properly and exclusively, as to the regulation of the propriety or discreteness of their conduct, under the direction and control of the executive department of the Government, and any interference by Congress in this respect can have only the effect of detracting from the dignity and usefulness of our foreign service.

JAMES B. MCCREARY.
H. ST. GEO. TUCKER.
H. D. MONEY.
HUGH A. DINSMORE.

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SELMA AND MERIDIAN RAILROAD COMPANY.

FEBRUARY 26, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COLSON, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 4623.]

The Committee on Claims, to whom was referred the bill (H. R. 4623) for the relief of the Selma and Meridian Railroad Company, beg leave to submit the following report:

Your committee adopt the report heretofore made by this committee to the Fifty-first Congress, which is as follows:

The Committee on Claims, to whom was referred the bill (H. R. 1051) for the relief of the Selma and Meridian Railroad Company, respectfully report:

A bill similar to this has been favorably reported by this committee in the Forty-ninth, the Fiftieth, and the Fifty-first Congresses, and always favorably.

Your committee adopt and affirm the House Report No. 343, Fifty-first Congress, first session, which is as follows:

[House Report, No. 343, Fifty-first Congress, first session.]

The Committee on Claims, to whom was referred the bill (H. R. 1418) for the relief of the Selma and Meridian Railroad Company, respectfully report:

A bill similar in all respects to the present bill was reported favorably by the Committee on Claims in the Forty-ninth and Fiftieth Congresses.

Your committee adopt the former report, which is as follows:

“This is a claim of the Selma and Meridian Railroad Company for carrying the mails over its road daily, between Selma, Ala., and Meridian, Miss. (a distance of 107 miles), from the 20th day of May, 1865, to April 1, 1866, ten and one-third months, at the rate of \$75 per mile, or \$8,025 per annum, amounting to \$6,910.42, on which a payment of \$3,012.42 has been made, leaving a balance due of \$3,898.

“This service was rendered under the military authorities and prior to the time when the Postmaster-General took possession of the postal service on this route. The claim was presented to the Quartermaster-General by the general superintendent of the road on the 25th day of May, 1867, but owing to some uncertainty in that officer's mind as to whether the mail was carried daily, a triweekly allowance was made at the rate of \$50 per mile.

“In addition to the evidence that was before the Quartermaster-General, showing that the mails were carried daily, the company now present the testimony of two members of this House as to this fact.

“Hon. A. L. Davidson lived within a quarter of a mile of the depot of this road at Bellview, Ala., and had every opportunity of knowing the facts in the case, and Hon. J. T. Jones resided at Demopolis, Ala., at the time named, and was a practicing attorney and received his mails daily by this road during this period. Had any interruption of the daily mail occurred it would have attracted his attention.

“The rate charged (\$75 per mile, or \$8,025 per annum) appears to your committee to be a reasonable compensation for this service, and is the price fixed and paid by the Postmaster-General for the same service immediately following the period charged for in this claim, as appears by the following order:

“[May 25, 1867, Route No. 7003a, Alabama, Selma and Meridian Railroad Company.]

“Recognize service of Selma and Meridian Railroad Company in conveying mails on this route from April 1 to June 30, 1866, at the rate of \$8,025 per annum, and refer

to the Auditor to adjust and place the amount found due at the Treasury to the credit of the Quartermaster's Department.' (The road being at that time indebted to that Department for rolling stock, etc., purchased from it.)

"This order also recognizes that the road has been carrying a daily mail and fixes the value of such service."

Your committee, being satisfied from the evidence that this road rendered the service charged for, and that the rate as fixed by the Postmaster-General for the service was reasonable and just, do recommend the passage of the bill.

○

ELIZA SANDFORD.

FEBRUARY 26, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COFFIN, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 1189.]

The Committee on Pensions, to whom was referred the bill (S. 1189) granting a pension to Eliza Sandford, respectfully submit the following report:

Eliza Sandford is the daughter of William Sandford, of Captain Williams's company, Colonel Van Courtland's regiment, New Jersey Volunteers, war of the Revolution. The soldier's entire service covered the period of two years and seven months. He received a pension under certificate No. 9814, beginning March 4, 1831, at the rate of \$120 per year, which pension ceased March 4, 1842, the date of his death. His widow was subsequently pensioned until February 12, 1864, when she died.

The papers accompanying the bill show that Eliza Sandford was born in 1816; that she has supported herself during her long life by her own exertions in the profession of a nurse until 1893, when she became disabled by reason of her advanced years. It is also shown that she has no near relatives to whom she can apply for a support, and is now entirely destitute and likely to become a public charge.

Miss Sandford is an excellent and worthy woman, and has always enjoyed the respect of her neighbors and acquaintances. The facts are shown by a memorial of the Daughters of the American Revolution of New Jersey, and also by the sworn statement of the claimant and of Horace Dodd, an aged resident of Essex County, N. J., who has known her for more than fifty years.

There are several precedents for the proposed legislation, and your committee recommend that the bill do pass with an amendment to pay her a pension at the rate of \$12 per month.

VIRGINIA E. TURTLE.

FEBRUARY 26, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COFFIN, from the Committee on Pensions, submitted the following

R E P O R T :

[To accompany H. R. 3264.]

The Committee on Pensions, to whom was referred the bill (H. R. 3264) granting an increase of pension to Virginia E. Turtle, have considered the same and respectfully report as follows:

Mrs. Turtle is the widow of Maj. Thomas Turtle, Corps of Engineers, United States Army, who died in the service, and from causes originating in the line of his duty, September 18, 1894. The soldier's service began as a cadet at the Military Academy July 1, 1863, and he subsequently passed through all the grades, until he finally attained the grade of major May 18, 1893.

His services, as certified to by the War Department, were of a most active and valuable character, and covered altogether the long period of thirty-one years.

After his death Mrs. Turtle was granted a pension of \$25 a month under the general laws, and this sum, together with \$2 additional for each of two minor children, is practically all that she has on which to depend for a support.

She married the soldier August 28, 1876, and his brother officers certify that, being a man of regular and careful habits, he would have been able to have made better provision for his family if it were not for the fact that he was obliged to assist his parents, they being in very moderate circumstances.

Mrs. Turtle is now about 53 years old, with three young children dependent upon her for a maintenance.

There are several precedents for the allowance of an increased rating to widows of officers of this rank, and, in view of the facts stated above, your committee recommend the passage of the bill, with an amendment, striking out the word "fifty," in line 8, and substituting therefor "forty," so as to allow a pension of \$40 per month.

ELIZABETH W. SUTHERLAND.

FEBRUARY 26, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COFFIN, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 1420.]

The Committee on Pensions, to whom was referred Senate bill 1420, granting an increase of pension to Elizabeth W. Sutherland, have considered the same, and respectfully report as follows:

Said bill is accompanied by Senate report No. 172, this session, and the same fully setting forth the facts, is adopted by your committee as their report, and the bill is returned with a favorable recommendation.

[Senate report No. 172, Fifty-fourth Congress, first session.]

The Committee on Pensions, to whom was referred the bill (S. 1420) granting a pension to Elizabeth W. Sutherland, have examined the same, and report:

Mrs. Sutherland is the widow of the late Brig. Gen. Charles Sutherland, who served as Surgeon-General of the United States Army with distinguished ability, and whose death occurred May 10, 1895. The widow was left with eight children, their ages ranging from 20 to 8 years.

The following is the record of the military services of Dr. Sutherland:

Appointed assistant surgeon, August, 1852; after examination served as an acting assistant surgeon for ten months prior to being commissioned.

First service was at Fort Monroe, Va., and remained there six months, 1851 and 1852.

In the spring of 1852 served at Jefferson Barracks, Mo. While stationed there an epidemic of cholera prevailed.

In summer of same year on duty with a military exploring party that located the present site of Fort Riley, Kans., and shortened the wagon trail to Santa Fe, N. Mex.

Served in the Department of New Mexico for five years, and stationed during that time at Forts Webster, Fillmore, Craig, Stanton, and Santa Fe. Took part at times with troops serving in that department in engagements with Apache and Comanche Indians. Transferred to the Department of Texas, and served there two years and a half. Stationed at Forts Davis and Duncan. Was serving at the latter post when the State of Texas seceded from the Union. Left the State without being captured, and reported at Washington, March, 1861. Sailed one week after by command of General Scott on a secret expedition to Fort Pickens and Santa Rosa Island, Florida. The troops composing this expeditionary force were among the first to take an active part in the war, sailing from New York and arriving at their destination prior to the first call for volunteers issued by President Lincoln. Remained at Fort Pickens one year on hospital duty. While there participated in two bombardments between United States troops and the enemy on the mainland; also in an attack made by Confederates on United States volunteers near hospital.

Commended for conduct and services on those occasions in the reports made by General Brown, commanding, since published in Official Records of the Rebellion.

Commissioned as surgeon, with the rank of major, April, 1862.

Relieved from duty at Fort Pickens and ordered to Fort Warren, Boston Harbor. This fort contained several hundred Confederate officers as prisoners, and was garrisoned by a regiment of volunteers.

In summer of same year ordered again to the field and reported to General Halleck, in command at Corinth, Miss.

Was selected to act as medical purveyor for the armies then concentrated near that center of military operations.

Subsequently, at Columbus, Ky., fitted out large warehouses for the storing and distribution of medical supplies for 200,000 men, the estimated strength of the army under General Halleck.

At Memphis, Tenn., established and organized a second large depot for distributing supplies.

At the same place fitted out nine general hospitals, capable of containing 3,000 patients, for the accommodation of the sick and wounded serving on the Mississippi River.

Assisted in equipping a floating hospital capable of holding over 800 beds for the use of the army under General Grant, stationed at Millikens Bend, near Vicksburg. Was attached to the headquarters of General Grant and selected as assistant medical director and also as inspector of camps and transports of the Army of the Tennessee, and continued on that duty until the surrender of Vicksburg, July, 1863.

Was engaged in the battles of Jackson and Champion Hill, and assisted in locating the field hospitals.

During siege, actively engaged in examining camps, transferring wounded to transports for Northern hospitals, and also in keeping departments supplied with medicines and stores. General Grant in the first volume of his personal memoirs, alluding to his campaign against Vicksburg in the winter of 1862 and 1863, writes that it was one of great hardship to all engaged in it:

"Troops could scarcely find dry ground on which to pitch tents. Malarial fevers broke out among the men. Measles and smallpox also attacked them. The hospital arrangements and medical attendance were so perfect, however, that the loss of life was much less than might have been expected."

After surrender of Vicksburg, appointed medical director of the Department of Virginia and North Carolina, under the command of General Foster, at Fort Monroe, Va. In this department, besides troops in the field, had supervision of five large general hospitals.

Owing to change of commanders a new staff was created; transferred to Annapolis, Md., and appointed medical director of hospitals and parole camp located in and near that city.

Member of retiring board at Wilmington, Del.

When General Grant moved with the Army of the Potomac, in the spring of 1864, was specially detailed by the Secretary of War to act as medical purveyor to supply that command, as well as the hospitals located in the city of Washington. There were twenty general hospitals, capable of holding over 30,000 patients. The Army of the Potomac was composed of at least 150,000 men. The supplying of these large establishments and the army in the field was faithfully maintained for over a year and until the close of the war. Spacious buildings in the city were kept filled with medical supplies of every description ready for immediate use, and a large force employed for prompt distribution of the same. Disbursed when on this duty over \$4,000,000 without loss to the Government and to the satisfaction of the accounting officers.

For these services when surgeon and major, without solicitation on his part, and on the recommendation of General Grant, then Commanding General of the Army, as well as of Surgeon-General Barnes, was appointed, by President Johnson, assistant medical purveyor, with the rank of lieutenant-colonel, to fill an original vacancy. Four other medical officers were similarly appointed, the present Surgeon-General being one of the number. This office was held until June, 1876, when it was vacated by receiving the appointment of surgeon, with the rank of colonel.

Member of retiring board convened in consequence of a reduction of the Army.

Served as medical director of the division of the Pacific at San Francisco, Cal., for five years.

President of a board of medical officers selected from the Army, Navy, and staff Marine Service, by direction of President Arthur, to designate a proper site for a quarantine station at San Francisco, Cal.

An act of Congress, session 1884, directed that all medical officers of the Army should take place in their several grades on the Army Register according to date of commission. This prevented any application for the position of Assistant Surgeon-General, to which the senior surgeon was, under the usual custom, entitled, and which was vacant at that time. If Dr. Sutherland had received the appointment and not promotion (being already a colonel) in accordance with this law he would have been transferred from the head of the list of colonels and lowered in rank four files, and instead of being the ranking colonel would be occupying an anomalous and degrading place at the foot. This law destroyed the value of the office of Assistant Surgeon-General as a promotion or as a stepping place to the higher grade of Surgeon-General, and bestowed only a title to any who should receive it, with no privileges or importance attached thereto. The vacancy was subsequently filled by

promoting the senior lieutenant colonel of the corps, and the War Department, recognizing the provisions of the law, placed the office at the foot of the list, where it belonged.

Served as medical director of the division of the Atlantic.

Was brevetted twice during the rebellion—lieutenant-colonel for services in the campaign and siege of Vicksburg, and colonel for diligent discharge of duties in the war.

Was appointed Surgeon-General, with rank of brigadier-general, in 1890 (being then the ranking officer of his corps); served in that capacity until his retirement for age.

[Extract from indorsement by General Grant, when Commanding General of the Army, to President Johnson, January 7, 1866, recommending Surgeon Sutherland for the appointment of assistant medical purveyor, with the rank of lieutenant-colonel, for services rendered during the war.]

As to Dr. Sutherland, I know of my own knowledge that he has performed satisfactorily about the most important and responsible duties in the field and out of it that it has been possible for any officer of his corps to render during the rebellion.

U. S. GRANT, *General.*

[Extract of letter from Surg. Gen. J. K. Barnes, U. S. A., to Senator E. Cowen, of Pennsylvania.]

WASHINGTON, D. C., *January, 1866.*

* * * * *

During the war Colonel Sutherland disbursed millions of money; was medical purveyor in the field to the great Army of the Southwest, and subsequently had charge of the great depot of the Army of the Potomac.

His qualifications are eminent, and his character, both public and private, unimpeachable.

He has served as surgeon, inspector, purveyor, and medical director. His duties have been of the most extensive character, as well as of vast responsibility.

* * * * *

J. K. BARNES, *Surgeon-General, U. S. A.*

[Letter of Surg. Madison Mills, afterwards medical inspector-general, United States Army, on file in Surgeon-General's Office.]

ST. LOUIS, MO., *March 8, 1886.*

Surg. Charles Sutherland was my principal assistant during the entire campaign—Vicksburg—and was constantly under fire in the discharge of his duties in the field, superintending the removal of the wounded as fast as they fell. I beg leave to recommend him for a brevet of lieutenant-colonel, to date from the 16th May, 1863, the battle of Champion Hill, when he was eight hours under fire in the discharge of his duties. I would also recommend him for the brevet of colonel, to date the 4th of July, 1863, the surrender of Vicksburg.

MADISON MILLS,

Surgeon, U. S. A., Medical Director, Army of the Tennessee.

SURGEON-GENERAL UNITED STATES ARMY,
Washington, D. C.

[From General Sherman.]

ST. LOUIS, MO., *June 27, 1886.*

DEAR SUTHERLAND: I have received your letter of the 23d instant, and assure you of my hearty sympathy in your claim to the vacancy soon to occur in the office of Surgeon-General by reason of the retirement of my good old friend Dr. Murray.

Of your services at Vicksburg, I can recall that we were attended by surgeons of great skill and administrative ability, of which you were one, and now I hesitate to attempt any discrimination. * * *

I trust this important fact will be understood, that you are the first on the list of army surgeons, with the experience of a lifetime, in sound physical health, and in every way qualified for the office to be filled.

Wishing you success, I am, sincerely, your friend,

W. T. SHERMAN.

Major-General McDowell, Major-General Schofield, and Major-General Pope also wrote letters highly commending the services of Surgeon-General Sutherland.

It will be observed that Dr. Sutherland served his country for forty years, gaining the admiration of our leading military men and working his way up to the high position of Surgeon-General by acknowledged ability and unimpeachable integrity. The country owes a debt of great gratitude to such men, whose brilliant achievements in surgery would have won them undying fame and large wealth had they devoted themselves to private and hospital practice.

Mrs. Sutherland is in receipt of a pension of \$30 per month, and as before suggested she has a large family of children to support and educate. She is a cultured, modest, unassuming lady, who in view of her husband's distinguished services naturally and properly turns to Congress for some measure of relief.

Your committee cordially recognizes the merit of this claim, and recommends the passage of the bill after being amended by striking out the words "one hundred," in lines 8 and 9, and substituting instead thereof the word "seventy-five."



POST-OFFICE APPROPRIATION BILL.

FEBRUARY 26, 1896.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. LOUD, from the Committee on the Post-Office and Post-Roads, submitted the following

REPORT:

[To accompany H. R. 6614.]

In presenting the bill making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1897, the Committee on the Post-Office and Post-Roads submit the following in explanation thereof:

The estimates on which the bill is based will be found on pages 219 and 220 of the Book of Estimates, amounting to \$94,817,900.

This bill recommends an appropriation of \$91,943,757.88, or \$2,874,142.12 less than the estimate.

The sum recommended by the committee is \$2,397,760.02 more than the appropriation for the current fiscal year, which amounted to \$89,545,997.86.

The estimated postal revenue for the fiscal year 1897, in the opinion of the Postmaster-General, will be \$89,763,120.71, or \$1,802,322.95 less than the appropriation recommended by the committee.

To meet whatever deficiency may occur in the several appropriations made by this bill, a sum equal to such deficiency of the revenues of the Post-Office Department is to be appropriated from the Treasury.

(1) *Advertising in office of Postmaster-General.*—The estimate is \$5,000. The sum recommended is \$5,000. The sum appropriated for 1896 was \$5,000.

(2) *Miscellaneous items, office Postmaster-General.*—The amount recommended in this bill is the same as the estimate, \$1,000. The expenditures have been for a series of years:

1890	\$955. 63
1891	1, 079. 64
1892	231. 81
1893	339. 07
1894	12. 00
1895	93. 77

OFFICE FIRST ASSISTANT POSTMASTER-GENERAL.

(3) *Compensation of postmasters.*—The amount asked for is \$17,000,000. This bill provides \$16,250,000, being \$750,000 less than the estimate. The expenditures for fiscal year 1895 were \$16,079,508.40. For previous years they have been:

1890	\$13, 761, 749. 72
1891	14, 573, 752. 79
1892	15, 249, 687. 66
1893	15, 897, 501. 12
1894	15, 917, 693. 25

For a series of years the appropriations have been—

1890	\$13, 600, 000. 00
1891	14, 000, 000. 00
1892	14, 900, 000. 00
1893	15, 250, 000. 00
1894	15, 600, 000. 00
1895	16, 000, 000. 00
1896	16, 000, 000. 00

For a series of years the deficiencies have been—

1890	\$193, 880. 88
1891	593, 538. 66
1892	404, 821. 47
1893	618, 619. 03
1894	319, 286. 82
1895	79, 508. 40

(4) *Compensation to clerks in post-offices.*—The amount asked for is \$10,500,000. This bill provides \$10,350,000, being \$250,000 more than the appropriation for 1896.

The appropriations for previous years have been as follows:

1890	\$6, 550, 000. 00
1891	7, 390, 000. 00
1892	8, 060, 000. 00
1893	8, 360, 000. 00
1894	8, 860, 000. 00
1895	9, 700, 000. 00
1896	10, 100, 000. 00

The expenditures have been—

1890	\$6, 535, 105. 08
1891	7, 376, 551. 37
1892	7, 925, 000. 04
1893	8, 345, 078. 88
1894	8, 768, 748. 26
1895	9, 414, 135. 67

The unexpended balances have been—

1890	\$14, 894. 92
1891	13, 448. 63
1892	134, 949. 96
1893	14, 921. 12
1894	91, 251. 74
1895	285, 864. 33

(5) *For rent, light, and fuel in first, second, and third class post-offices.*—This item is a consolidation of first, second, and third class post-offices under one head. The amount asked for is \$1,600,000, and the appropriation is the same, and also the same as for the current year.

The expenditures have been for 1893, \$1,294+; 1894, \$1,294+; 1895, \$1,424+.

(6) *For necessary, miscellaneous, and incidental items directly connected with first and second class post-offices,* \$150,000.

The appropriations for a series of years have been—

1890	\$110, 000. 00
1891	120, 000. 00
1892	132, 000. 00
1893	110, 000. 00
1894	125, 000. 00
1895	140, 000. 00
1896	150, 000. 00

The expenditures have been—

1890	\$109,578.63
1891	111,226.40
1892	119,784.08
1893	108,406.66
1894	113,758.64
1895	102,569.64

The unexpended balances have been—

1890	\$421.37
1891	8,773.60
1892	12,215.92
1893	2,689.74
1894	11,241.36
1895	37,430.36

(7) *For advertising at first and second class post-offices, \$15,000.* The amount appropriated for 1896 was the same.

(8) *For free-delivery service, \$12,754,750.* The amount of estimate is \$12,960,300, which your committee have reduced in bill \$206,000. This item has been segregated into several items, as will appear by the following:

For pay of letter carriers, \$12,254,300. This is \$41,017+ more than the estimates submitted for 1896, and \$6,000 less than the amount estimated for 1897.

For horse-hire allowance, \$330,000.

For car fare and bicycle, \$100,000.

For street letter boxes, \$15,400.

For package boxes, \$10,250.

For 12 mechanics in the 6 largest cities employed in repairing, etc., at \$900 per annum, \$10,800.

For incidental expenses, repairs, etc., \$24,000.

The appropriations for the support of the free-delivery service for a series of years has been—

1890	\$8,000,000.00
1891	9,094,485.00
1892	10,092,542.00
1893	10,754,943.00
1894	11,254,900.00
1895	12,327,685.33
1896	12,790,283.64

The expenditures have been—

1890	\$7,979,957.83
1891	9,072,862.27
1892	9,966,902.87
1893	10,690,816.04
1894	11,245,536.37
1895	12,139,092.27

The unexpended balances have been—

1890	\$20,042.17
1891	21,622.73
1892	124,177.52
1893	64,132.63
1894	9,363.63
1895	188,593.06

(9) *Stationery in post-offices.*—The estimate is \$50,000. The sum recommended is \$50,000. For a series of years the appropriations, including deficiencies, have been—

1890	\$57,500.00
1891	57,000.00
1892	57,000.00

1893	\$57,000.00
1894	57,000.00
1895	57,000.00
1896	50,000.00

The expenditures have been—

1890	\$51,973.09
1891	52,840.20
1892	53,019.47
1893	56,026.49
1894	32,488.88
1895	53,302.59

(10) *Wrapping twine*.—The estimate is \$80,000. The sum recommended is \$80,000.

For a series of years the appropriations, including deficiencies, have been—

1890	\$85,000.00
1891	85,000.00
1892	85,000.00
1893	110,000.00
1894	90,000.00
1895	80,000.00
1896	80,000.00

The expenditures have been—

1890	\$78,033.88
1891	81,032.91
1892	84,783.93
1893	108,952.00
1894	81,603.40
1895	79,989.76

(11) *Wrapping paper*.—The estimate is \$50,000. The amount recommended is \$50,000. For a series of years the appropriations, including deficiencies, have been—

1890	\$50,000.00
1891	58,000.00
1892	60,000.00
1893	56,622.00
1894	60,000.00
1895	50,000.00
1896	50,000.00

For a series of years the expenditures have been—

1890	\$49,898.78
1891	53,260.44
1892	55,315.88
1893	47,549.94
1894	50,039.00
1895	49,989.24

The unexpended balances have been—

1890	\$101.22
1891	4,739.56
1892	4,684.12
1893	9,072.06
1894	7,961.00
1895	10.76

(12) *Letter balances, etc.*—The estimate is \$12,000. The sum recommended is \$10,000.

For a series of years the appropriations have been—

1890	\$15,000.00
1891	18,000.00
1892	18,000.00

1893	\$18,000.00
1894	18,000.00
1895	15,000.00
1896	15,000.00

The expenditures have been—

1890	\$14,989.20
1891	16,276.43
1892	12,689.49
1893	12,267.43
1894	7,220.35
1895	8,924.88

(13) *Postmarking and rating stamps, etc.*—The amount of estimate is \$30,000. The amount recommended is \$27,500, being \$2,500 less than the amount asked for.

The appropriations for a series of years have been—

1890	\$35,000.00
1891	40,000.00
1892	80,000.00
1893	40,000.00
1894	40,000.00
1895	30,000.00
1896	30,000.00

The expenditures have been—

1890	\$33,294.68
1891	28,708.10
1892	25,861.99
1893	27,228.91
1894	29,199.16
1895	24,305.20

The unexpended balances have been—

1890	\$1,705.32
1891	11,291.90
1892	52,457.51
1893	12,771.09
1894	10,800.84
1895	5,694.80

(14) *Packing boxes, etc.*—The estimate is \$1,500. The sum recommended is \$1,500.

The appropriations for a series of years have been—

1890	\$3,000.00
1891	3,000.00
1892	2,000.00
1893	1,500.00
1894	1,500.00
1895	1,500.00
1896	1,500.00

The expenditures—

1890	\$1,413.48
1891	1,145.58
1892	1,331.60
1893	1,200.67
1894	1,026.43
1895	987.95

The unexpended balances have been—

1890	\$1,586.52
1891	1,854.42
1892	649.65
1893	299.33
1894	473.57
1895	12.05

(15) *Printing facing slips, etc.*—The amount of estimate is \$18,000 and the amount recommended is \$15,000.

The appropriations for a series of years have been—

1890	\$7,000.00
1891	7,000.00
1892	8,000.00
1893	7,000.00
1894	10,000.00
1895	10,000.00
1896	15,000.00

The expenditures have been—

1890	\$5,484.82
1891	5,177.48
1892	5,841.93
1893	6,045.20
1894	7,326.15
1895	9,759.37

The unexpended balances have been—

1890	\$1,515.18
1891	1,822.52
1892	1,947.11
1893	954.80
1894	2,673.85
1895	240.63

(16) *For rent of canceling machines*, \$40,000; amount estimated, \$60,000.

In view of the following statement of the First Assistant Postmaster-General we think the sum recommended should be sufficient to cover all necessary expenditures:

CANCELING MACHINES.

Estimate for canceling machines.—The appropriation for canceling machines, to cover cost of service for the fiscal year ending June 30, 1896, is \$60,000. As stated in my report for the fiscal year 1894-95, the rent paid for certain canceling machines was excessive, but at that time I was unable to make contracts for such machines, or others to displace them, at a lower rental and at a figure which I considered proper and just.

The contract for the use of 100 Hey & Dolphin machines, installed at an annual rental of \$400 each, expired June 30, 1895, and in lieu thereof I have entered into a contract with William Barry to furnish 100 of the Barry pattern at a rental of \$150 per annum each. The Barry machine can, under similar circumstances and conditions, perform as good service as the Hey & Dolphin. Under this new contract I have effected a saving to the Government of \$25,000 per annum.

In addition to the Barry machines, I now have in use 134 machines of the Postal Machines Company, at an annual rental of \$200 each, and have taken steps looking to the use of 91 more machines, making a total of 325 machines, at an annual rental not to exceed \$60,000, as against 213 machines for last year.

I now have before me requisitions from various post-offices throughout the country, covering 107 machines in addition to the 234 above referred to. Believing that satisfactory canceling machines, at a reasonable rental, expedite the handling of mails, I desire to fill all requisitions for machines as rapidly as possible wherever the volume of business and the conditions warrant.

It will be seen from the above that the use of canceling machines at above rentals can be extended under the present appropriation. I therefore recommend that Congress appropriate for the fiscal year 1896-97 \$60,000 for the rental or purchase of canceling machines.

OFFICE OF THE SECOND ASSISTANT POSTMASTER-GENERAL.

(17) *Inland mail transportation by star routes.*—The estimate found in Book of Estimates is \$6,124,000. This was subsequently reduced by the Postmaster-General \$200,000, leaving as the present estimate

\$5,924,000. From this amount we have deducted \$570,000, which was the segregated estimate of Department for regulation wagon service, and this item has been carried forward under such head, leaving the estimate for star service \$5,354,000, which amount we recommend. Your committee were of the opinion that money appropriated for star service should be used for no other purpose, hence our segregation.

The appropriations for a series of years have been for both items, inclusive—

1890	\$5, 650, 000. 00
1891	5, 812, 216. 55
1892	5, 892, 730. 51
1893	5, 845, 000. 00
1894	5, 945, 000. 00
1895	6, 000, 000. 00
1896	5, 875, 000. 00

The expenditures have been—

1890	5, 367, 761. 46
1891	5, 376, 861. 35
1892	5, 520, 420. 85
1893	5, 680, 572. 36
1894	5, 846, 855. 65
1895	5, 753, 579. 07

The unexpended balances have been—

1890	\$282, 238. 54
1891	435, 355. 20
1892	372, 309. 66
1893	164, 427. 64
1894	98, 144. 35
1895	246, 420. 93

(18) *Inland transportation by steamboat routes.*—The estimate is \$420,000; the sum recommended is \$400,000.

The appropriations for a series of years have been—

1890	\$462, 689. 79
1891	525, 000. 00
1892	525, 000. 00
1893	465, 000. 00
1894	450, 000. 00
1895	420, 000. 09
1896	420, 000. 00

The expenditures have been—

1890	\$445, 084. 40
1891	443, 084. 44
1892	431, 135. 82
1893	403, 812. 75
1894	416, 679. 26
1895	381, 430. 02

The unexpended balances have been—

1890	\$17, 605. 39
1891	81, 915. 36
1892	93, 864. 18
1893	61, 187. 25
1894	33, 320. 74
1895	38, 569. 98

(19) *Mail-messenger service.*—The amount asked for is \$1,300,000. Amount appropriated is \$1,130,000. The difference between the estimate and appropriation, \$170,000, is carried to the item "regulation screen or other wagon service," where it properly belongs.

The appropriations for a series of years have been as follows:

1890	\$1,000,000.00
1891	1,100,000.00
1892	1,200,000.00
1893	1,200,000.00
1894	1,275,000.00
1895	1,285,000.00
1896	1,265,000.00

The expenditures have been—

1890	\$978,242.36
1891	1,054,253.34
1892	1,129,836.86
1893	1,202,012.44
1894	1,211,022.85
1895	1,192,985.46

The unexpended balances have been—

1890	\$21,757.64
1891	45,746.66
1892	68,016.51
1894	66,027.29
1895	92,014.54

There was a deficiency for the year 1893 of \$2,381.58.

(20) *For regulation screen or other wagon service, \$670,000.* This is the item segregated from star-route service with a deduction of \$70,000, which we think will be met by electric-car service provided for in a separate item.

(21) *Mail bags, catchers, cord, fasteners, etc.*—The estimate is \$345,000. Sum recommended is \$325,000.

For a series of years the appropriations have been—

1890	\$225,000.00
1891	275,000.00
1892	260,000.00
1893	260,000.00
1894	260,000.00
1895	270,000.00

The expenditures have been—

1890	\$220,551.83
1891	274,748.96
1892	257,365.71
1893	259,986.86
1894	250,662.45
1895	244,142.79

The unexpended balances have been—

1890	\$4,448.17
1891	251.04
1892	2,634.29
1893	13.14
1894	9,337.55
1895	25,857.21

(22) *Mail locks and keys, etc.*—The estimate is \$50,000. Amount recommended is \$40,000.

The appropriations for a series of years have been—

1890	\$15,000.00
1891	50,000.00
1892	45,000.00
1893	35,000.00
1894	35,000.00
1895	35,000.00
1896	40,000.00

The expenditures have been—

1890	\$15,000.06
1891	44,930.64
1892	42,032.59
1893	34,881.60
1894	34,913.39
1895	34,636.67

The unexpended balances have been—

1893	\$118.40
1894	86.61
1895	363.33

(23) *Rent of buildings for mail-bag repair shop, etc.*—The estimate is \$8,500. The sum recommended is \$8,500. The appropriations have been—

1890	\$10,000.00
1891	6,500.00
1892	6,500.00
1893	6,500.00
1894	8,500.00
1895	8,500.00

Expenditures for a series of years have been—

1890	9,882.18
1891	5,822.59
1892	5,050.13
1893	6,476.84
1894	8,258.60

(24) *Inland transportation by railroad routes.*—The amount asked for is \$29,000,000. The sum recommended by the committee is \$27,500,000, being \$1,500,000 less than the estimate and \$1,000,000 more than the appropriation for 1895.

The appropriations for a series of years have been—

1893	\$23,633,657.51
1894	24,500,000.00
1895	25,500,000.00
1896	26,500,000.00

The deficiency appropriations have been—

1893	\$737,820.53
1894	1,269,000.00
1895	935,000.00

(25) *Railway post-office car service.*—The amount asked for is \$3,411,000. The sum recommended by the committee is \$3,400,000, being \$195,000 more than the appropriation for 1896.

The appropriations for a series of years have been—

1893	\$2,809,750.00
1894	2,941,000.00
1895	3,000,000.00
1896	3,205,000.00

The expenditures have been—

1893	\$2,795,624.53
1894	2,923,709.90
1895	2,946,939.46

(26) *Railway post-office clerks.*—The estimate is \$7,739,000. The sum recommended is \$7,639,000, being \$206,000 more than the appropriation for 1896, and \$100,000 less than the estimate.

The appropriations for a series of years have been—

1893	\$6, 631, 000. 00
1894	6, 894, 000. 00
1895	7, 186, 000. 00
1896	7, 433, 000. 00

The expenditures have been—

1893	\$6, 632, 381. 73
1894	6, 878, 673. 73
1895	7, 103, 025. 30

(27) *For transportation of mail by electric and cable cars, etc., \$150,000.*—This is a new item submitted by the Department, and \$200,000 was asked for such service.

(27½) *For necessary and special facilities on trunk lines, \$378,314.02.*

The appropriations have been for a series of years—

1893	\$196, 614. 22
1894	196, 614. 22
1895	196, 614. 22
1896	196, 614. 22

The expenditures have been—

1893	\$193, 335. 23
1894	163, 035. 67
1895	165, 928. 54

(28) *For miscellaneous items.*—The amount asked for is \$1,000. The amount recommended is \$1,000, being \$500 more than the appropriation for 1896.

The appropriations for a series of years have been—

1893	\$500. 00
1894	500. 00
1895	500. 00
1896	500. 00

The expenditures have been—

1893	\$500. 00
1894	490. 89
1895	490. 14

(29) *For transportation of foreign mails.*—The estimate is \$1,887,000. The sum recommended is \$1,750,000, being \$137,000 less than the estimate and \$150,000 more than the appropriation for 1896.

The appropriations for a series of years have been—

1893	\$1, 102, 290. 00
1894	1, 600, 000. 00
1895	1, 400, 000. 00
1896	1, 600, 000. 00

The expenditures have been—

1893	\$1, 215, 285. 90
1894	1, 283, 893. 51
1895	1, 171, 455. 90

(30) *For balance due foreign countries.*—The amount asked for is \$142,400. The sum recommended is \$120,000, being \$22,000 less than the estimate, and the same amount as appropriated for 1896.

The appropriations for a series of years have been—

1893	\$87, 500. 00
1894	110, 000. 00
1895	110, 000. 00
1896	120, 000. 00

The expenditures have been—

1893	\$87,500.00
1894	110,000.00
1895	109,386.66

OFFICE OF THIRD ASSISTANT POSTMASTER-GENERAL.

(31) *Manufacture of adhesive postage and special-delivery stamps.*—The estimate is \$162,000. The sum recommended is \$160,000, being the amount appropriated for 1896.

The appropriations for a series of years have been—

1893	\$219,700.00
1894	376,200.00
1895	163,000.00
1896	160,000.00

The expenditures have been—

1893	\$312,110.93
1894	338,745.35
1895	107,699.78

(32) *Pay of agent and assistants to distribute stamps, etc.*—The estimate is \$12,000. The sum recommended is \$12,000.

The appropriations for a series of years have been—

1893	\$9,000.00
1894	12,000.00
1895	12,000.00
1896	12,000.00

The expenditures have been—

1893	\$8,820.00
1894	9,094.75
1895	9,784.78

(33) *Manufacture of stamped envelopes, etc.*—The amount asked for is \$830,000. The sum recommended by the committee is \$830,000, being \$170,000 less than the appropriation for 1895, and the same as the amount appropriated for 1896.

The appropriations for a series of years have been—

1893	\$1,047,000.00
1894	1,110,000.00
1895	1,000,000.00
1896	830,000.00

The expenditures have been—

1893	\$995,365.70
1894	901,999.33
1895	835,548.07

(34) *Pay of agent and assistant to distribute stamped envelopes, etc., and expenses of agency.*—The estimate is \$17,800. The sum recommended is \$17,800.

The appropriations for a series of years have been—

1893	\$17,800.00
1894	17,800.00
1895	17,800.00
1896	17,800.00

The expenditures have been—

1893	\$17,017.77
1894	17,422.16
1895	17,747.30

(35) *Manufacture of postal cards.*—The estimate is \$186,000. The sum recommended is \$186,000.

The appropriations for a series of years have been—

1893	\$212, 000. 00
1894	343, 700. 00
1895	203, 000. 00
1896	186, 000. 00

The expenditures have been—

1893	\$258, 930. 86
1894	177, 327. 21
1895	163, 060. 50

(36) *Postal-card agency; pay of agents and assistants to distribute.*—The estimate is \$7,800. The sum recommended is \$7,800.

For a series of years the appropriations have been—

1893	\$7, 800. 00
1894	7, 800. 00
1895	7, 800. 00
1896	7, 800. 00

The expenditures have been—

1893	\$7, 031. 05
1894	6, 730. 10
1895	6, 119. 05

(37) *Registered-package, etc., and dead-letter envelopes.*—The estimate is \$112,000. The sum recommended is \$105,000.

The appropriations for a series of years have been—

1893	\$116, 000. 00
1894	113, 600. 00
1895	110, 000. 00
1896	107, 000. 00

The expenditures have been—

1893	\$95, 334. 30
1894	88, 690. 89
1895	97, 840. 34

(38) *Ship, steamboat, and way letters.*—The estimate is \$1,500. The sum recommended is \$1,000.

The appropriations for a series of years have been—

1893	\$1, 400. 00
1894	1, 500. 00
1895	1, 500. 00
1896	1, 500. 00

The expenditures have been—

1893	\$910. 74
1894	951. 87
1895	727. 66

(39) *Engravings, etc., drafts, and warrants.*—The estimate is \$2,000. The sum recommended is \$1,000.

The appropriations for a series of years have been—

1893	\$3, 200. 00
1894	3, 200. 00
1895	3, 200. 00
1896	2, 000. 00

The expenditures have been—

1893	
1894	
1895	

(40) *Miscellaneous items.*—The estimate is \$500. The amount recommended is \$500.

The appropriations for a series of years have been—

1893	\$500. 00
1894	500. 00
1895	500. 00
1896	500. 00

The expenditures have been—

1893	\$223. 33
1894	83. 00
1895	282. 00

OFFICE OF THE FOURTH ASSISTANT POSTMASTER-GENERAL.

(41) *Mail depredations and post-office inspectors.*—The amount asked for is \$300,000. The committee recommends \$332,093.66. For a series of years the appropriations have been—

1893	\$235, 000. 00
1894	235, 000. 00
1895	300, 000. 00
1896	300, 000. 00

The expenditures have been—

1893	\$238, 725. 97
1894	198, 245. 67
1895	236, 271. 16

Under section 4020 of the Revised Statutes post-office inspectors employed in the money-order service are paid out of the proceeds of the money-order business. The expenditure for such service for the year 1891 amounted to \$57,441.93, for the year 1892 it amounted to \$58,639.05, and for the year 1893, \$57,862.54, and for the year 1894, \$57,899.95, and for the year 1895, \$57,998.04. This is in addition to the ordinary expenditure.

Your committee, in so far as was practicable, have segregated items of appropriations throughout this bill, and have continued such practice in this item of mail depredations and post-office inspectors, being satisfied that such course would be beneficial to the service. The First Assistant Postmaster-General submitted item of \$140,000 for special agents—subsequently reduced to \$80,000. This was in continuance of a system inaugurated during the year 1894, without specific appropriation for such service, the money being taken from amount appropriated for support of free-delivery service.

Your committee are of the opinion that there should be some system of supervision of the carrier service, but think that such supervision should be under the regular post-office inspectors' force, for many reasons, the principal one of which is that two separate forces would conflict and destroy the usefulness of both. So your committee, in furtherance of such object, have made provision for thirty additional inspectors under the Fourth Assistant Postmaster-General. We have recommended that the pay of inspectors hereafter appointed be reduced for first, second, and third year of service, and that the per diem allowance be reduced from \$4 to \$3 per day.

For pay of post-office inspectors and clerks, \$212,093.66.

For per diem allowance to inspectors, \$90,000.

For incidental expenses, including prosecutions of official investigations, etc., \$13,000.

For allowance to post-office inspectors, including necessary expenses in special cases in excess of per diem allowance, etc., \$17,000.

(42) *Payment of rewards for arrest and conviction of robbers, etc., \$35,000.*

FINANCIAL STATEMENT OF BUSINESS.

The following statement shows in brief the expenditures and receipts of the postal service for the year by items, the summary of which has already been stated:

Transportation of the mails on railroads.....	\$26,429,747.21
Compensation of postmasters.....	16,079,508.40
Free-delivery or letter-carrier service.....	12,139,092.27
Compensation of clerks in post-offices.....	9,414,135.67
Compensation of railway post-office clerks.....	7,103,025.30
Star transportation of the mails.....	5,753,579.07
Railway post-office car service.....	2,946,939.46
Mail-messenger service.....	1,192,985.46
Transportation of foreign mails.....	1,171,455.90
Manufacture of stamped envelopes.....	835,548.07
Rent, light, and fuel for first and second class offices.....	824,715.63
Rent, light, and fuel for third-class offices.....	599,980.45
Steamboat transportation of the mails.....	381,430.02
Special-delivery service.....	281,161.42
Mail bags and catchers.....	244,142.79
Mail depredations and post-office inspectors.....	236,271.16
Special facilities on railroads.....	165,928.54
Manufacture of postal cards.....	163,060.50
Balances due foreign countries.....	109,386.66
Manufacture of postage stamps.....	107,699.78
Miscellaneous items, including office furniture.....	102,569.64
Manufacture of registered-package and post-office envelopes.....	97,840.34
Wrapping twine.....	79,989.76
Canceling machines.....	59,987.88
Stationery for post-offices.....	53,302.59
Wrapping paper.....	49,989.24
Expenditures under sixteen other smaller items of appropriation.....	166,699.61
Total expenditures.....	86,790,172.82

The postal revenue from all sources was as follows:

Sale of postage stamps, stamped envelopes, newspaper wrappers, postal cards, and letter sheets.....	73,477,440.98
Box rents.....	2,509,949.58
Money-order receipts.....	812,038.10
Letter postage paid in money—mostly balances from foreign postal administrations.....	135,818.06
Fines and penalties.....	20,889.68
Miscellaneous receipts.....	14,774.34
Receipts from unclaimed dead letters.....	12,217.45
Total receipts.....	76,983,128.19
Excess of expenditures over receipts.....	9,807,044.63

I have already shown that these receipts are an increase of \$3,202,649.15 over the actual receipts from the operations of the postal service last year, or about 4½ per cent. An analysis of the expenditures, either by items or totals, will show that while there has been an increase in amount—which of course must result from an increase of business and territory—the ratio of increase has fallen off. In fact, putting the comparison upon this ground, there has been a very decided economy in the management of postal business during the past two years, as the following statement will show:

In the year ending June 30, 1890, the increase of total postal expenditure over that of the previous year was..	\$4,553,869, or 7.4 per cent.
In 1891 the increase was.....	5,731,624, or 8.7 per cent.
In 1892 the increase was.....	4,661,420, or 6.5 per cent.
In 1893 the increase was.....	4,750,342, or 6.2 per cent.
In 1894, the first full year of the present administration, the increase was.....	3,250,309, or 4.0 per cent.
In 1895, the past fiscal year, the increase was.....	2,465,758, or 2.9 per cent.

REVENUES AND EXPENDITURES.

The postal revenue for the year was as follows:

Total ordinary postal revenue.....	\$76, 171, 090. 09
Receipts from money-order business.....	812, 038. 10
Total revenue from all sources	76, 983, 128. 19
Total expenditures for the service of the year, not including earnings of the Pacific railroads, which are credited on their debt to the Government	86, 790, 172. 82
Excess of expenditures over receipts.....	9, 807, 044. 63
Excess of expenditures over receipts, year ended June 30, 1894.....	9, 243, 935. 11

It will be seen that the financial and industrial depression which has seriously affected the revenues of the postal service for the past two years, and disappointed the estimates of my predecessors, extended far enough into the fiscal year 1895 to make an unusually wide gap between revenues and expenditures. It is gratifying, however, to report that a large part of this deficiency occurred in the first quarter of the year, and that since then the revenues of the Department have reflected the general returning prosperity of the country. This will appear by comparing the postal revenues of the years 1894 and 1895.

The total postal revenues for the fiscal year 1894 were \$75,080,479.04, an actual falling off from the previous year (when they were \$75,896,933.16) of \$816,454.12, or, counting the amount transferred in 1894 from the unpaid money-order fund to the general postal fund, a decrease of \$2,116,454.12. The total postal revenues for the fiscal year 1895 were \$76,983,128.19, showing an increase of \$1,902,649.15. But the actual increase was much larger, for in the year 1894, pursuant to authority contained in an act entitled "An act to modify the postal money-order system, and for other purposes," approved March 3, 1883, the sum of \$1,300,000 was transferred from the balance of unpaid money-order accounts, and caused to be deposited in the Treasury for the service of the Post-Office Department.

The true comparison of revenues for the two years, then, is as follows:

For the year 1894:

Total ordinary postal revenue.....	\$72, 820, 137. 78
From money-order business	960, 341. 26
Total revenue.....	73, 780, 479. 04

For the year 1895:

Total ordinary postal revenue	76, 171, 090. 09
From money-order business	812, 038. 10
Total revenue.....	76, 983, 128. 19

or an actual increase in postal revenues earned for the year 1895 of \$3,202,649.15, which is about 4½ per cent.

While it is inevitable that the expenses of the postal service must increase from year to year, with the steady growth and improvement of the service, it is believed that the report of the current year will show a very substantial decrease in the annual deficiency.

The estimates of my predecessor for the year ended June 30, 1895, were as follows:

Gross estimated revenue	\$84, 427, 748. 44
Expenditures for year.....	90, 399, 485. 33
Deficiency for year, estimated	5, 971, 736. 89

The actual figures as above stated are as follows:

Gross revenue for 1895.....	\$76, 983, 128. 19
Expenditures.....	86, 790, 172. 82
Actual deficiency	9, 807, 044. 63

His estimates for the current year were as follows:

Estimated postal revenue for year ending June 30, 1896.....	\$86, 907, 407. 00
Estimated expenditures.....	91, 059, 283. 64
Estimated deficiency.....	4, 151, 876. 64

Anticipating that the improvement already manifest in the condition of the country and by consequence in the postal revenue will continue, I have submitted, through the Secretary of the Treasury, estimates for the current and for the ensuing fiscal years based upon an annual increase of 8 per cent, which is the average of fairly prosperous years.

They are made up as follows:

Total postal revenue, 1895.....	\$76, 983, 128. 19
Add 8 per cent.....	6, 158, 650. 25
Estimated revenue for 1896.....	83, 141, 778. 44
Expenditures, estimated.....	89, 545, 997. 86
Deficiency for year 1896, estimated.....	6, 404, 219. 42

My estimates for the ensuing fiscal year, submitted through the Secretary of the Treasury, are as follows:

Estimated total revenue for year 1896.....	\$83, 141, 778. 44
Add 8 per cent.....	6, 651, 342. 27
Total estimated revenue for year ending June 30, 1897.....	89, 793, 120. 71
Estimated expenditures.....	94, 817, 900. 00
Leaving an estimated deficiency of.....	5, 024, 779. 29

The aggregate credits to the subsidized Pacific railroads for the year ended June 30, 1895, were \$1,395,732.57, as against \$1,629,770.09 for the previous year.

The regular annual deficiency in the revenues of the postal service, emphasized as it appears to be by the unusual amount of the deficiencies for the past two years, may call forth comment from those who believe that the Post-Office Department should be self-sustaining, and will undoubtedly disappoint those who are urging a reduction in our rates of postage, regardless of the fact that those rates are already relatively lower than the rates of any other great nation. But it should be remembered that the free business done by this Department for other branches and Departments of the Government, if paid for at regular or cost rates, would more than wipe out its deficiencies, and that Congress in providing money out of the general Treasury for those deficiencies is simply reimbursing the Department by a method the most direct and economical, which saves both labor and bookkeeping, for service it is required to perform without pay.

Reserving for a later page of this report a reference to the chief cause of the yearly deficiency in postal revenue—the gross abuse of second-class rates of postage by so-called periodicals—I may add that while the people rightly expect the Post-Office Department to earn as nearly as possible its running expenses, they none the less demand that it shall provide adequate and ample mail facilities and shall be constantly on the alert to advance and increase the service it renders to them. The reports of the heads of the several bureaus for the year last ended, will, I am confident, disclose a record of efficiency and improvement not surpassed in the history of the service, and it is believed that the current year's progress will not suffer in a like comparison.

This is but as it should be, for every year builds upon the work and experience of all that precede and commands larger facilities in increased means, in the steady development and perfecting of our transportation systems, in the march of enterprise and invention, and in the adoption of closer economies and better business methods.

INCREASE OF PRESIDENTIAL POST-OFFICES.

From the report of the First Assistant Postmaster-General it will be found that, as a result of the annual adjustment of salaries of Presidential postmasters, as directed by the act of March 3, 1883, there were on the 1st day of July, 1895, 3,491 Presidential offices, an increase of 89 over the previous year. These offices were assigned as follows: 159 to the first class; 700 to the second class; 2,632 to the third class; an increase of 10 first-class offices; 34 second-class offices, and 45 third-class offices, as compared with their respective numbers on July 1, 1894.

The average salary of the 3,491 Presidential postmasters as adjusted from the 1st of July, 1895, is \$1,689. The aggregate receipts of the same offices for the fiscal year 1894-95 was \$60,538,097.92—the largest in the history of the Department and constituting 78.64 per cent of its entire revenue. Of these receipts the amount absorbed for salaries was less than 10 per cent (9.74). Prior to last year it had been the custom to adjust the annual salaries of postmasters on the basis of figures submitted

by them in their quarterly reports rendered to the Department. These reports are now carefully compared with figures revised by the Auditor for the Post-Office Department before fixing the salaries of postmasters. This plan does away with considerable correspondence and tends to diminish the errors in the reports of the postmasters themselves.

The aggregate amount required to pay the salaries of Presidential postmasters from July 1, 1895, based on annual adjustment for the four quarters preceeding March 31, 1895, is at the rate of \$5,897,200 per annum, being an increase of \$177,300. The estimate of \$17,000,000 for the compensation of all postmasters for the fiscal year 1896-97 is therefore deemed moderate one.

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APPENDIX A.

Statement of estimates, appropriations, and expenditures on account of postal service for fiscal year 1893.

	Estimates for 1893.	Amount re-ported to the House.	Amount of ap-propria-tion.	Deficiency ap-propria-tion.	Increase of approp-riation over 1892.		Expenditures for 1893.	Increase of expend-itures over 1892.	
					Amount.	Per cent.		Amount.	Per cent.
<i>Office of Postmaster-General.</i>									
Advertising.....	\$18,000.00	\$18,000.00	\$18,000.00	\$2,197.74	\$14,732.20	42.1	\$20,197.74	\$14,694.60	42.2
Miscellaneous items.....	1,500.00	1,000.00	1,000.00	.....	500.00	33.3	339.07	105.49	23.7
<i>Office of First Assistant Postmaster-General.</i>									
Compensation of postmasters.....	15,365,000.00	15,250,000.00	15,250,000.00	648,649.03	593,827.56	3.8	15,897,501.12	595,953.42	3.8
Compensation of clerks in post-offices.....	8,460,000.00	8,160,000.00	8,360,000.00	.....	300,000.00	3.7	8,345,078.88	420,028.84	5.2
Rent, light, and fuel in first and second class post-offices.....	747,000.00	731,500.00	747,000.00	3,834.34	19,334.34	2.6	750,826.13	46,898.77	6.6
Rent, light, and fuel in third-class post-offices.....	610,000.00	500,000.00	610,000.00	.....	17,200.00	2.9	543,928.73	27,044.77	5.2
Miscellaneous items, including office furniture.....	132,000.00	100,000.00	110,000.00	.....	22,000.00	16.6	108,406.66	11,377.42	9.4
Free-delivery service.....	10,754,943.00	10,450,000.00	10,754,943.00	.....	662,401.00	6.5	10,690,816.04	716,544.68	7.1
Stationery for post-offices.....	57,000.00	57,000.00	57,000.00	.....	.....	.....	56,026.49	3,007.02	5.6
Wrapping twine.....	85,000.00	85,000.00	85,000.00	25,000.00	25,000.00	29.4	108,952.00	24,168.07	28.4
Wrapping paper.....	60,000.00	56,622.00	56,622.00	.....	3,378.00	5.6	47,549.94	7,765.94	14.0
Letter balances, scales, and test weights.....	18,000.00	18,000.00	18,000.00	.....	.....	.....	12,267.43	422.06	3.3
Postmarking and rating stamps.....	60,000.00	40,000.00	40,000.00	.....	40,000.00	50.0	27,228.91	1,780.59	6.0
Packing boxes, sawdust, etc.....	2,000.00	1,500.00	1,500.00	.....	500.00	25.0	1,200.67	149.68	11.0
Printing facing-slips, etc.....	8,000.00	6,000.00	7,000.00	.....	1,000.00	12.5	6,116.14	2.04	0.03
Advertising at first and second class post-offices.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Renting of canceling machines.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
<i>Office of Second Assistant Postmaster-General.</i>									
Inland mail transportation—railroad.....	23,983,657.51	23,483,657.51	23,633,657.51	737,820.53	1,821,349.73	8.0	24,371,477.09	1,891,371.83	8.4
Inland mail transportation—special facilities.....	.....	196,614.22	196,614.22	.....	98,807.57	33.4	193,335.23	317.01	0.1
Inland mail transportation—star.....	5,645,000.00	5,645,000.00	5,645,000.00	.....	47,730.51	0.8	5,700,086.17	174,242.72	3.0
Inland mail transportation—steamboat.....	465,000.00	465,000.00	465,000.00	.....	60,000.00	11.4	404,647.21	30,938.68	7.2
Mail messenger service.....	1,220,000.00	1,100,000.00	1,200,000.00	2,030.02	2,030.02	0.1	1,202,012.44	69,331.18	6.1
Mail bags and catchers.....	260,000.00	260,000.00	260,000.00	.....	.....	.....	259,986.86	147.76	0.05
Mail locks and keys.....	40,000.00	35,000.00	35,000.00	.....	10,000.00	22.2	34,881.60	10,114.88	22.5
Repair shop for mail bags.....	6,500.00	6,000.00	6,500.00	.....	.....	.....	6,476.84	22.20	0.3
Railway post-office car service.....	2,836,000.00	2,783,500.00	2,809,750.00	.....	78,750.00	2.8	2,795,624.53	199,732.03	7.6
Railway post-office clerks.....	6,631,000.00	6,631,000.00	6,631,000.00	1,388.64	279,388.64	4.3	6,632,381.73	305,015.90	4.8
Miscellaneous items.....	1,000.00	500.00	500.00	.....	500.00	50.0	500.00	333.48	40.0
Transportation of foreign mails.....	794,000.00	291,839.19	1,102,290.00	113,449.07	34,260.93	2.7	1,215,285.90	12,260.90	0.9
Balance due foreign countries.....	156,000.00	75,000.00	87,500.00	.....	72,500.00	45.3	87,500.00	40,186.55	31.4

Office of Third Assistant Postmaster-General.

Manufacture of postage stamps	219,700.00	203,000.00	219,700.00	135,608.35	152,308.35	75.0	312,110.93	119,337.11	61.9
Distribution of postage stamps	9,500.00	9,000.00	9,000.00	.....	.....	.....	8,820.00	86.28	0.9
Manufacture of stamped envelopes, newspaper wrappers, etc.	1,047,000.00	1,018,435.00	1,047,000.00	.....	114,000.00	12.2	995,365.70	85,324.77	9.3
Distribution of stamped envelopes, newspaper wrappers, etc.	17,800.00	17,000.00	17,800.00	.....	.....	.....	17,017.77	10.60	0.06
Manufacture of postal cards	212,000.00	200,000.00	212,000.00	71,934.30	69,934.30	32.6	258,930.86	50,601.65	24.3
Distribution of postal cards	7,800.00	7,800.00	7,800.00	.....	.....	.....	7,031.05	458.28	6.5
Registered package, tag, official, and dead letter envelopes	116,000.00	108,000.00	116,000.00	.....	11,000.00	8.6	95,334.30	10,718.76	12.6
Ship, steamboat, and way letters	2,000.00	1,400.00	1,400.00	.....	1,100.00	44.0	910.74	55.24	6.4
Engraving, printing, and binding drafts and warrants	4,000.00	3,200.00	3,200.00	.....	800.00	20.0	.....	.....	.....
Special delivery service .....	.....	.....	256,677.51	.....	44,942.08	21.2	256,677.51	44,942.08	21.2
Miscellaneous items	1,000.00	500.00	500.00	.....	500.00	50.0	223.33	183.73	469.7
Total	80,323,400.51	78,216,067.92	80,587,954.24	1,745,639.31	3,789,819.10	4.8	81,728,690.71	4,627,945.74	6.0

Office of Fourth Assistant Postmaster-General.

Mail depredations, post-office inspectors, etc.	270,000.00	200,000.00	235,000.00	3,727.29	44,337.71	15.6	238,725.97	44,326.13	15.6
World's Fair post-office, special appropriation .....	.....	.....	63,000.00	.....	63,000.00	.....	14,411.00	14,411.00	.....
Purchase of Confederate records .....	.....	.....	10,000.00	.....	10,000.00	.....	2,500.00	2,500.00	.....
Total	80,323,400.51	78,216,067.92	80,587,954.24	1,745,639.31	3,789,819.10	4.8	81,728,690.71	4,627,945.74	6.0

APPENDIX B.

Statement of estimates, appropriations, and expenditures on account of postal service for fiscal year 1894.

	Estimates for 1894.	Amount reported to the House.	Amount of appropriation.	Deficiency appropriation.	Increase of appropriation over 1893.		Expenditures for 1894.	Increase of expenditures over 1893.	
					Amount.	Per cent.		Amount.	Per cent.
<i>Office of Postmaster-General.</i>									
Advertising.....	\$18,000.00	\$18,000.00	\$18,000.00	\$5,000.00	\$2,802.26	13.8	\$22,386.49	\$2,188.75	10.7
Miscellaneous items.....	1,000.00	1,000.00	1,000.00	.....	.....	.....	12.00	327.07	96.4
<i>Office of First Assistant Postmaster-General.</i>									
Compensation of postmasters.....	15,850,000.00	15,600,000.00	15,600,000.00	319,286.82	20,637.79	0.1	15,917,693.25	20,192.13	0.1
Compensation of clerks in post-offices.....	8,860,000.00	8,860,000.00	8,860,000.00	.....	500,000.00	5.9	8,768,748.26	423,669.38	5.0
Rent, light, and fuel in first and second class post-offices.....	767,000.00	767,000.00	802,000.00	.....	51,165.66	6.8	795,612.28	44,786.15	5.9
Rent, light, and fuel in third-class post-offices.....	630,000.00	630,000.00	630,000.00	.....	20,000.00	3.2	574,323.48	30,394.75	5.5
Miscellaneous items, including office furniture.....	140,000.00	125,000.00	125,000.00	.....	15,000.00	13.6	113,758.64	5,351.98	4.9
Free-delivery service.....	11,254,943.00	11,254,943.00	11,254,900.00	.....	499,957.00	4.6	11,245,536.37	554,720.33	5.1
Stationery for post-offices.....	57,000.00	57,000.00	57,000.00	.....	.....	.....	32,545.73	23,480.76	41.9
Wrapping twine.....	90,000.00	90,000.00	90,000.00	.....	20,000.00	18.1	81,603.40	27,348.60	25.1
Wrapping paper.....	60,000.00	60,000.00	60,000.00	.....	3,378.00	5.9	50,039.00	2,489.06	5.2
Letter balances, scales, and test weights.....	18,000.00	18,000.00	18,000.00	.....	.....	.....	7,220.35	5,047.08	41.1
Postmarking and rating stamps.....	40,000.00	40,000.00	40,000.00	.....	.....	.....	29,199.16	1,970.25	7.2
Packing boxes, sawdust, etc.....	1,500.00	1,500.00	1,500.00	.....	.....	.....	1,026.43	174.24	14.5
Printing facing slips, etc.....	10,000.00	10,000.00	10,000.00	.....	3,000.00	42.8	7,371.21	1,255.07	20.5
Advertising at first and second class post-offices.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Renting of canceling machines.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
<i>Office of Second Assistant Postmaster-General.</i>									
Inland mail transportation—railroad.....	25,500,000.00	24,500,000.00	24,500,000.00	1,269,000.00	1,397,521.96	5.7	25,757,756.46	1,386,279.37	5.6
Inland mail transportation—special facilities.....	.....	196,614.22	196,614.22	.....	.....	.....	163,035.67	30,299.56	15.6
Inland mail transportation—star.....	5,945,000.00	5,945,000.00	5,945,000.00	.....	100,000.00	1.7	5,864,717.03	164,630.86	2.8
Inland mail transportation—steamboat.....	450,000.00	450,000.00	450,000.00	.....	15,000.00	3.2	416,679.26	12,032.05	2.8
Mail messenger service.....	1,275,000.00	1,275,000.00	1,275,000.00	.....	72,969.98	6.0	1,211,022.85	9,010.41	0.7
Mail bags and catchers.....	260,000.00	260,000.00	260,000.00	.....	.....	.....	250,662.45	9,324.41	8.5
Mail locks and keys.....	35,000.00	35,000.00	35,000.00	.....	.....	.....	34,913.39	31.79	0.09
Repair shop for mail bags.....	8,500.00	8,500.00	8,500.00	.....	2,000.00	30.7	8,491.52	2,014.68	31.0
Railway post-office car service.....	2,941,000.00	2,941,000.00	2,941,000.00	.....	131,250.00	4.6	2,923,709.90	128,085.37	4.5
Railway post-office clerks.....	6,894,000.00	6,894,000.00	6,894,000.00	.....	261,611.36	3.8	6,878,673.73	246,292.00	3.7
Miscellaneous items.....	500.00	500.00	500.00	.....	.....	.....	490.89	9.11	1.8
Transportation of foreign mails.....	1,723,000.00	1,500,000.00	1,600,000.00	.....	384,260.93	31.6	1,283,893.51	68,607.61	5.6
Balance due foreign countries.....	152,000.00	110,000.00	110,000.00	.....	22,500.00	25.7	110,000.00	22,500.00	25.7

Office of Third Assistant Postmaster-General.

Manufacture of postage stamps.....	376, 200. 00	376, 200. 00	376, 200. 00	.....	20, 891. 65	5. 8	338, 745. 35	26, 634. 42	8. 5
Distribution of postage stamps.....	12, 000. 00	12, 000. 00	12, 000. 00	.....	3, 000. 00	33. 3	9, 094. 75	274. 75	3. 1
Manufacture of stamped envelopes, newspaper wrap- pers, etc.....	1, 110, 000. 00	1, 110, 000. 00	1, 110, 000. 00	.....	63, 000. 00	6. 0	901, 999. 33	93, 366. 37	9. 3
Distribution of stamped envelopes, newspaper wrappers, etc.....	17, 800. 00	17, 800. 00	17, 800. 00	.....	.....	.....	17, 422. 16	404. 39	2. 3
Manufacture of postal cards.....	343, 700. 00	343, 700. 00	343, 700. 00	.....	59, 765. 70	21. 1	177, 327. 21	81, 603. 65	31. 4
Distribution of postal cards.....	7, 800. 00	7, 800. 00	7, 800. 00	.....	.....	.....	6, 730. 10	300. 95	4. 2
Registered package, tag, official, and dead-letter envelopes.	113, 600. 00	113, 600. 00	113, 600. 00	.....	2, 400. 00	2. 0	88, 690. 89	6, 643. 41	6. 9
Ship, steamboat, and way letters.....	2, 000. 00	1, 500. 00	1, 500. 00	.....	100. 00	7. 1	951. 87	41. 13	4. 5
Engraving, printing, and binding drafts and warrants.....	3, 200. 00	3, 200. 00	3, 200. 00	.....	.....	.....	.....	.....	.....
Special-delivery service.....	.....	.....	261, 237. 46	.....	4, 500. 67	1. 7	261, 237. 46	4, 559. 95	1. 7
Miscellaneous items.....	500. 00	500. 00	500. 00	.....	.....	.....	83. 00	140. 33	62. 6

Office of Fourth Assistant Postmaster-General.

Mail depredations, post-office inspectors, etc.....	235, 000. 00	235, 000. 00	235, 000. 00	.....	3, 727. 29	1. 4	198, 245. 67	40, 480. 30	16. 9
World's Fair post-office.....	.....	.....	48, 659. 79	.....	14, 340. 21	22. 7	32, 404. 84	17, 993. 84	124. 9
Purchase of Confederate records.....	.....	.....	.....	.....	10, 000. 00	.....	.....	2, 500. 00	.....
Total.....	85, 203, 243. 00	83, 869, 357. 22	84, 314, 211. 47	1, 593, 286. 82	3, 573, 905. 46	4. 3	84, 584, 055. 34	2, 855, 364. 63	3. 4

APPENDIX C.

Statement of estimates, appropriations, and expenditures on account of postal service for fiscal year 1895

	Estimates for 1895.	Amount reported to the House.	Amount of appropriation.	Deficiency appropriation.	Increase of appropriation over 1894.		Expenditures for 1895.	Increase of expenditures over 1894.	
					Amount.	Per cent.		Amount.	Per cent.
<i>Office of Postmaster-General.</i>									
Advertising.....	\$18,000.00	\$18,000.00	\$19,000.00	.....	\$4,000.00	17.3	\$14,616.52	\$7,769.97	53.1
Miscellaneous items.....	1,000.00	1,000.00	1,000.00	.....	.....	.....	93.77	81.77	631.4
<i>Office of First Assistant Postmaster-General.</i>									
Compensation of postmasters.....	17,250,000.00	16,000,000.00	16,000,000.00	.....	80,713.18	0.5	16,079,508.40	161,815.15	1
Compensation of clerks in post-offices.....	9,700,000.00	9,700,000.00	9,700,000.00	.....	840,000.00	9.4	9,414,135.67	645,887.41	7.3
Rent, light, and fuel in first and second class post-offices.....	845,000.00	845,000.00	845,000.00	.....	43,000.00	5.3	824,715.63	29,103.35	3.6
Rent, light, and fuel in third-class post-offices.....	630,000.00	660,000.00	660,000.00	.....	30,000.00	4.7	599,980.15	25,656.97	4.4
Miscellaneous items, including office furniture.....	140,000.00	140,000.00	140,000.00	.....	15,000.00	12.0	102,569.64	11,189.00	10.8
Free-delivery service.....	12,327,685.33	12,327,685.33	12,327,685.33	.....	1,072,785.33	9.5	12,139,092.27	893,555.90	8.0
Stationery for post-offices.....	57,000.00	57,000.00	57,000.00	.....	.....	.....	53,302.59	20,756.86	63.8
Wrapping twine.....	80,000.00	80,000.00	80,000.00	.....	10,000.00	11.1	79,989.76	1,613.64	1.9
Wrapping paper.....	50,000.00	50,000.00	50,000.00	.....	10,000.00	16.6	49,189.24	49.76	0.09
Letter balances, scales, and test weights.....	15,000.00	15,000.00	15,000.00	.....	3,000.00	16.6	8,924.88	1,704.53	23.4
Postmarking and rating stamps.....	30,000.00	30,000.00	30,000.00	.....	10,000.00	25.0	24,305.20	4,893.96	20.1
Packing boxes, sawdust, etc.....	1,500.00	1,500.00	1,500.00	.....	.....	.....	987.95	38.48	3.9
Printing facing slips, etc.....	10,000.00	10,000.00	10,000.00	.....	.....	.....	9,759.37	2,388.16	32.4
Advertising at first and second class post-offices.....	15,000.00	15,000.00	15,000.00	.....	.....	.....	.....	.....	.....
Renting of canceling machines.....	60,000.00	60,000.00	60,000.00	.....	60,000.00	.....	59,987.88	59,987.88	.....
<i>Office of Second Assistant Postmaster-General.</i>									
Inland mail transportation—railroad.....	26,900,000.00	25,500,000.00	25,500,000.00	935,000.00	666,000.00	2.5	26,429,747.21	671,990.75	2.6
Inland mail transportation—special facilities.....	.....	196,614.22	196,614.22	.....	.....	.....	165,928.54	2,892.87	1.7
Inland mail transportation—star.....	6,000,000.00	6,000,000.00	6,000,000.00	.....	55,000.00	0.9	5,753,579.07	111,137.96	1.9
Inland mail transportation—steamboat.....	445,000.00	420,000.00	420,000.00	.....	30,000.00	6.6	381,430.02	35,249.24	8.4
Mail-messenger service.....	1,285,000.00	1,285,000.00	1,285,000.00	.....	10,000.00	0.8	1,192,985.46	15,037.39	1.4
Mail bags and catchers.....	270,000.00	270,000.00	270,000.00	.....	10,000.00	3.8	244,142.79	6,519.66	2.5
Mail locks and keys.....	35,000.00	35,000.00	35,000.00	.....	.....	.....	34,676.67	276.72	0.8
Repair shop for mail bags.....	8,500.00	8,500.00	8,500.00	.....	.....	.....	8,174.05	317.47	3.7
Railway post-office car service.....	3,094,000.00	3,000,000.00	3,000,000.00	.....	59,000.00	1.9	2,946,959.46	23,229.56	0.8
Railway post-office clerks.....	7,186,000.00	7,186,000.00	7,186,000.00	.....	292,000.00	4.2	7,103,025.30	224,351.57	3.2
Miscellaneous items.....	500.00	500.00	500.00	.....	.....	.....	490.14	.75	.....
Transportation of foreign mails.....	1,678,000.00	1,400,000.00	1,400,000.00	.....	200,000.00	12.5	1,171,455.90	112,437.61	8.7
Balance due foreign countries.....	152,000.00	110,000.00	110,000.00	.....	.....	.....	109,386.66	613.34	0.5

Office of Third Assistant Postmaster-General.

Manufacture of postage stamps.....	243,000.00	243,000.00	163,000.00	.....	213,200.00	56.7	107,699.78	281,045.57	68.2
Distribution of postage stamps.....	12,000.00	12,000.00	12,000.00	.....	.....	.....	9,784.78	690.03	7.0
Manufacture of stamped envelopes, newspaper wrappers, etc.....	1,160,000.00	1,150,000.00	1,000,000.00	.....	110,000.00	9.9	835,548.07	66,451.26	7.3
Distribution of stamped envelopes, newspaper wrappers, etc.....	17,800.00	17,800.00	17,800.00	.....	.....	.....	17,747.30	325.14	1.8
Manufacture of postal cards.....	203,000.00	203,000.00	203,000.00	.....	140,700.00	40.0	163,060.50	14,266.71	8.0
Distribution of postal cards.....	7,800.00	7,800.00	7,800.00	.....	.....	.....	6,119.05	611.05	9.0
Registered package, tag, official, and dead-letter envelopes.....	111,000.00	110,000.00	110,000.00	.....	.....	.....	97,840.34	9,149.45	10.3
Ship, steamboat, and way letters.....	2,000.00	1,500.00	1,500.00	.....	.....	.....	727.66	224.21	23.5
Engraving, printing, and binding drafts and warrants.....	3,200.00	3,200.00	3,200.00	.....	.....	.....	.....	.....	.....
Special-delivery service.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Miscellaneous items.....	500.00	500.00	281,161.42	.....	19,923.96	7.6	281,161.42	19,923.96	7.6
			500.00	.....	.....	.....	282.00	199.00	239.7

Office of Fourth Assistant Postmaster-General.

Mail depredations, post-office inspectors, etc.....	300,000.00	300,000.00	300,000.00	.....	65,000.00	27.6	236,271.16	38,025.49	19.1
Rewards.....	25,000.00	.....	10,000.00	.....	10,000.00	.....	3,000.00	3,000.00	.....
World's Fair post-office.....	.....	.....	.....	.....	48,659.79	.....	.....	32,404.84	.....
Unpaid money orders more than one year old.....	.....	.....	27,050.27	.....	27,050.27	.....	27,050.27	27,050.27	.....
Total.....	90,399,485.33	87,470,599.55	87,544,811.24	935,000.00	2,572,312.95	2.9	86,790 172.83	2,206,117.48	2.6

APPENDIX D.

Statement of estimates and appropriations on account of postal service for fiscal year 1896, with estimates for fiscal year 1897.

	Estimates for 1896.	Amount reported to the House.	Amount of appropriation.	Increase of appropriation over 1895.		Estimates for 1897.
				Amount.	Per cent.	
<i>Office of Postmaster-General.</i>						
Advertising	\$5,000.00	\$5,000.00	\$5,000.00	\$14,000.00	73.6	\$5,000.00
Miscellaneous items.....	1,000.00	1,000.00	1,000.00	.....	.....	1,000.00
<i>Office of First Assistant Postmaster-General.</i>						
Compensation of postmasters.....	16,500,000.00	16,250,000.00	16,000,000.00	.....	.....	17,000,000.00
Compensation of clerks in post-offices	10,100,000.00	10,350,000.00	10,100,000.00	400,000.00	4.1	10,500,000.00
Rent, light, and fuel in first and second class post-offices.....	900,000.00	900,000.00	{ 900,000.00	55,000.00	6.5	900,000.00
Rent, light, and fuel in third-class post-offices	700,000.00	{ 1,600,000.00	{ 700,000.00	40,000.00	6.0	700,000.00
Miscellaneous items, including office furniture	150,000.00	150,000.00	150,000.00	10,000.00	7.1	150,000.00
Free-delivery service.....	12,790,283.64	12,744,750.00	12,790,283.64	462,538.31	3.7	12,960,300.00
Stationery for post-offices.....	50,000.00	50,000.00	50,000.00	7,000.00	12.2	50,000.00
Wrapping twine.....	80,000.00	80,000.00	80,000.00	.....	.....	80,000.00
Wrapping paper.....	50,000.00	50,000.00	50,000.00	.....	.....	50,000.00
Letter balances, scales, and test weights	15,000.00	10,000.00	15,000.00	.....	.....	12,000.00
Postmarking and rating stamps	30,000.00	27,500.00	30,000.00	.....	.....	30,000.00
Packing boxes, sawdust, etc	1,500.00	1,500.00	1,500.00	.....	.....	1,500.00
Printing facing slips, etc.....	15,000.00	15,000.00	15,000.00	5,000.00	50.0	18,000.00
Advertising at first and second class post-offices.....	15,000.00	15,000.00	15,000.00	15,000.00	.....	15,000.00
Renting of canceling machines	60,000.00	40,000.00	60,000.00	.....	.....	60,000.00
<i>Office of Second Assistant Postmaster-General.</i>						
Inland mail transportation—railroad.....	27,500,000.00	27,500,000.00	26,500,000.00	65,000.00	0.2	29,000,000.00
Inland mail transportation—special facilities.....	.....	378,314.22	196,614.22	.....	.....	.....
Inland mail transportation—star.....	5,875,000.00	5,354,000.00	5,875,000.00	125,000.00	2.0	6,124,000.00
Inland mail transportation—steamboat	420,000.00	400,000.00	420,000.00	.....	.....	420,000.00
Mail-messenger service.....	1,275,000.00	1,300,000.00	1,265,000.00	20,000.00	1.5	1,300,000.00
Mail bags and catchers.....	270,000.00	325,000.00	270,000.00	.....	.....	345,000.00
Mail locks and keys.....	40,000.00	40,000.00	40,000.00	5,000.00	14.2	50,000.00
Repair shop for mail bags.....	8,500.00	8,500.00	8,500.00	.....	.....	8,500.00
Railway post-office car service.....	3,205,000.00	3,400,000.00	3,205,000.00	205,000.00	6.8	3,411,000.00
Railway post-office clerks	7,433,000.00	7,639,000.00	7,433,000.00	247,000.00	3.4	7,739,000.00
Miscellaneous items.....	1,000.00	1,000.00	500.00	.....	.....	1,000.00
Transportation of foreign mails.....	1,792,400.00	1,750,000.00	1,600,000.00	200,000.00	14.2	1,887,600.00
Balance due foreign countries.....	127,000.00	120,000.00	120,000.00	10,000.00	9.0	142,400.00

Inland mail transportation by electric and cable cars.....	150,000.00				200,000.00
Wagon service.....	500,000.00				
<i>Office of Third Assistant Postmaster-General.</i>					
Manufacture of postage stamps.....	160,000.00	160,000.00	3,000.00	1.8	162,000.00
Distribution of postage stamps.....	12,000.00	12,000.00			12,000.00
Manufacture of stamped envelopes, newspaper wrappers, etc.....	830,000.00	830,000.00	170,000.00	17.0	830,000.00
Distribution of stamped envelopes, newspaper wrappers, etc.....	17,800.00	17,800.00			17,800.00
Manufacture of postal cards.....	186,000.00	186,000.00	17,000.00	8.3	186,000.00
Distribution of postal cards.....	7,800.00	7,800.00			7,800.00
Registered package, tag, official, and dead-letter envelopes.....	107,000.00	107,000.00	3,000.00	2.7	112,000.00
Ship, steamboat, and way letters.....	1,500.00	1,500.00			1,500.00
Engraving, printing, and binding drafts and warrants.....	2,000.00	2,000.00	1,200.00	37.5	2,000.00
Special-delivery service.....					
Miscellaneous items.....	500.00	500.00			500.00
<i>Office of Fourth Assistant Postmaster-General.</i>					
Mail depredations, post-office inspectors, etc.....	300,000.00	300,000.00			300,000.00
Rewards.....	25,000.00	25,000.00	15,000.00	150.0	25,000.00
Total.....	91,059,283.64	91,943,757.88	1,374,398.31	1.5	94,817,900.00

APPENDIX E.

Appropriations and expenditures for the Post-Office Department.

[Decrease in black figures.]

1891.						
Title of appropriation.	Appropriation.	Deficiency.	Total.	Increase over 1890.	Expenditures.	Surplus.
<i>Office of the Postmaster-General.</i>						
Advertising	\$18,000.00	\$261.46	\$18,261.46	\$261.46	\$18,261.46	.....
Miscellaneous items	1,500.00	.....	1,500.00	.....	1,095.54	\$404.46
<i>Office of the First Assistant Postmaster-General.</i>						
Compensation of postmasters.....	14,000,000.00	593,538.66	14,593,538.66	799,657.78	14,591,256.48	2,282.18
Compensation of clerks in post-offices.....	7,390,000.00	.....	7,390,000.00	840,000.00	7,376,551.37	13,448.63
Rent, light, and fuel for first and second class offices.....	665,000.00	.....	665,000.00	5,500.00	653,945.55	11,054.45
Rent, light, and fuel for third-class offices.....	571,500.00	.....	571,500.00	66,420.00	470,562.87	100,937.13
Miscellaneous items, including office furniture.....	120,000.00	.....	120,000.00	10,000.00	111,526.40	8,473.60
Free-delivery service	9,094,485.00	.....	9,094,485.00	1,094,485.00	9,074,738.14	19,746.86
Stationery for post-offices.....	57,000.00	.....	57,000.00	500.00	52,840.20	4,159.80
Wrapping twine.....	85,000.00	.....	85,000.00	.....	81,032.91	3,967.09
Wrapping paper.....	58,000.00	.....	58,000.00	8,000.00	53,260.44	4,739.56
Letter balances, scales, and test weights	18,000.00	.....	18,000.00	3,000.00	16,276.43	1,723.57
Postmarking and rating stamps.....	40,000.00	.....	40,000.00	5,000.00	28,708.60	11,291.40
Packing boxes, sawdust, etc.....	3,000.00	.....	3,000.00	.....	1,145.58	1,854.42
Printing facing slips, slide labels, etc.....	7,000.00	.....	7,000.00	.....	5,490.91	1,509.09
•						
<i>Office of the Second Assistant Postmaster-General.</i>						
Inland mail transportation—railroad.....	21,106,275.65	358,092.86	21,464,368.51	1,817,387.57	21,464,271.27	97.24
Inland mail transportation—special facilities.....	295,421.79	.....	295,421.79	233.59	291,613.45	3,808.34
Inland mail transportation—star	5,812,216.55	.....	5,812,216.55	162,216.55	5,378,386.01	433,830.54
Inland mail transportation—steamboat.....	525,000.00	.....	525,000.00	62,310.21	443,084.44	81,915.56
Mail-messenger service.....	1,100,000.00	.....	1,100,000.00	100,000.09	1,055,280.05	44,719.95
Mail bags and catchers.....	275,000.00	.....	275,000.00	50,000.00	274,749.46	250.54
Mail locks and keys.....	50,000.00	.....	50,000.00	35,000.00	49,612.71	387.29
Repair shop for mail bags.....	6,500.00	.....	6,500.00	3,500.00	6,498.05	1.95
Railway post-office car service.....	2,510,000.00	.....	2,510,000.00	250,000.00	2,450,924.18	59,075.82
Railway post-office clerks.....	5,910,000.00	.....	5,910,000.00	310,000.00	5,907,128.16	2,871.84
Miscellaneous items.....	1,000.00	.....	1,000.00	.....	590.42	409.58
Transportation for foreign mail.....	712,000.00	.....	712,000.00	57,000.00	629,446.79	82,553.21
Balance due foreign countries.....	161,000.00	.....	161,000.00	61,000.00	88,048.80	72,951.20

Office of the Third Assistant Postmaster-General.

Manufacture of postage stamps.....	173,000.00	9,065.06	182,065.06	16,191.06	182,065.06	.....
Distribution of postage stamps.....	9,000.00	.....	9,000.00	.....	8,673.68	326.32
Manufacture of stamped envelopes, etc.....	875,000.00	.....	875,000.00	6,649.00	866,416.37	8,583.63
Distribution of stamped envelopes, etc.....	16,000.00	.....	16,000.00	.....	15,706.62	293.38
Manufacture of postal cards.....	180,000.00	.....	180,000.00	48,781.00	155,273.47	24,726.53
Distribution of postal cards.....	7,800.00	.....	7,800.00	.....	6,321.73	1,478.27
Registered package, tag, official, and dead-letter envelopes.....	116,000.00	.....	116,000.00	6,255.00	99,480.30	16,519.70
Ship, steamboat, and way letters.....	2,500.00	.....	2,500.00	.....	1,145.36	1,354.64
Engraving, printing, and binding warrants and drafts.....	3,500.00	.....	3,500.00	500.00	2,700.00	800.00
Special-delivery service.....	174,510.02	.....	174,510.02	32,927.11	174,510.02	.....
Miscellaneous items.....	1,000.00	.....	1,000.00	.....	33.95	966.05

Office of the Fourth Assistant Postmaster-General.

Mail depredations and post-office inspectors.....	250,000.00	.....	250,000.00	50,000.00	247,465.88	2,534.12
Postal laws and regulations.....	40,365.00	.....	40,365.00	40,365.00	28,001.95	12,363.05
Total.....	72,441,574.01	960,958.04	73,402,532.05	5,943,140.33	72,364,121.06	1,038,410.99

APPENDIX F.

Appropriations and expenditures for the Post-Office Department—Continued.

[Decrease in black figures.]

Title of appropriation.	1892.				
	Appropriation.	Deficiency.	Total.	Increase over 1891.	Expenditures.
<i>Office of the Postmaster-General.</i>					
Advertising	\$18,000.00	\$16,929.94	\$34,929.94	\$16,668.48	\$34,892.34
Miscellaneous items	1,500.00	.....	1,500.00	.....	444.56
					\$37.60 1,055.44
<i>Office of the First Assistant Postmaster-General.</i>					
Compensation to postmasters	14,900,000.00	404,821.47	15,304,821.47	711,282.81	15,301,547.70
Compensation to clerks in post-offices	8,060,000.00	.....	8,060,000.00	670,000.00	7,925,050.04
Rent, light, and fuel for first and second class offices	731,500.00	.....	731,500.00	66,500.00	703,927.36
Rent, light, and fuel for third-class offices	592,800.00	.....	592,800.00	21,300.00	516,883.96
Miscellaneous items, including office furniture	132,000.00	.....	132,000.00	12,000.00	119,784.08
Free-delivery service	10,092,542.00	.....	10,092,542.00	998,057.00	9,974,271.36
Stationery for post-offices	57,000.00	.....	57,000.00	.....	53,019.47
Wrapping twine	85,000.00	.....	85,000.00	.....	84,783.93
Wrapping paper	60,000.00	.....	60,000.00	2,000.00	55,315.88
Letter balances, scales, and test weights	18,000.00	.....	18,000.00	.....	12,689.49
Postmarking and rating stamps	80,000.00	.....	80,000.00	40,000.00	29,009.50
Packing boxes, sawdust, etc.	2,000.00	.....	2,000.00	1,000.00	1,350.35
Printing facing slips, slide labels, etc.	8,000.00	.....	8,000.00	1,000.00	6,114.10
					3,980.53 216.07 4,684.12 5,310.51 50,990.50 649.65 1,885.90
<i>Office of the Second Assistant Postmaster-General.</i>					
Inland mail transportation—railroad	22,550,128.31	.....	22,550,128.31	1,085,759.80	22,480,105.26
Inland mail transportation—special facilities	295,421.79	.....	295,421.79	.....	193,018.22
Inland mail transportation—star	5,892,730.51	.....	5,892,730.51	80,513.96	5,525,843.45
Inland mail transportation—steamboat	525,000.00	.....	525,000.00	.....	435,585.89
Mail messenger service	1,200,000.00	.....	1,200,000.00	100,000.00	1,132,681.26
Mail bags and catchers	260,000.00	.....	260,000.00	15,000.00	259,839.10
Maillocks and keys	45,000.00	.....	45,000.00	5,000.00	44,996.48
Repair shop for mail bags	6,500.00	.....	6,500.00	.....	6,499.04
Railway post-office car service	2,731,000.00	.....	2,731,000.00	221,000.00	2,595,892.50
Railway post-office clerks	6,353,000.00	.....	6,253,000.00	443,000.00	6,327,365.83
Miscellaneous items	1,000.00	.....	1,000.00	.....	833.48
Transportation of foreign mail	1,250,000.00	.....	1,250,000.00	538,000.00	1,227,546.80
Balance due foreign countries	160,000.00	.....	160,000.00	1,000.00	1,127,686.55
					70,023.05 102,403.57 366,887.06 89,414.11 67,318.74 160.90 3.52 96 135,107.50 25,634.17 166.52 22,453.20 32,313.45

Office of the Third Assistant Postmaster-General.

Manufacture of postage stamps.....	203,000.00	.....	203,000.00	20,934.94	192,773.82	10,226.18
Distribution of postage stamps.....	9,000.00	.....	9,000.00	.....	8,733.72	266.28
Manufacture of stamped envelopes.....	933,000.00	.....	933,000.00	58,000.00	910,040.93	22,959.07
Distribution of stamped envelopes.....	17,800.00	.....	17,800.00	1,800.09	17,028.37	771.63
Manufacture of postal cards.....	214,000.00	.....	214,000.00	34,000.00	208,329.21	5,670.79
Distribution of postal cards.....	7,800.00	.....	7,800.00	.....	6,572.77	1,227.23
Registered-package, tag, official, and dead-letter envelopes.....	127,000.00	.....	127,000.00	11,000.00	84,615.54	42,384.46
Ship, steamboat, and way letters.....	2,500.00	.....	2,500.00	.....	855.50	1,644.50
Engraving, printing, and binding warrants and drafts.....	4,000.00	.....	4,000.00	500.00	.....	4,000.00
Special-delivery service.....	211,735.43	.....	211,735.43	37,225.41	211,735.43	.....
Miscellaneous items.....	1,000.00	.....	1,000.00	.....	39.60	960.40

Office of the Fourth Assistant Postmaster-General.

Mail depredations and post-office inspectors.....	270,000.00	13,065.00	283,065.00	33,065.00	283,042.10	22.90
Total.....	78,108,953.04	434,816.41	78,543,774.45	5,203,607.40	77,100,744.97	1,443,029.48
				22,000.00		
				5,181,607.40		

APPENDIX G.

Appropriations and expenditures for the Post-Office Department—Continued.

[Decrease in black figures.]

		1894.				
Title of appropriation.	Appropriation.	Deficiency.	Total.	Increase over 1893.	Expenditures.	Surplus.
<i>Office of the Postmaster-General.</i>						
Advertising	\$18,000.00	\$5,000.00	\$23,000.00	\$2,802.26	\$22,386.49	\$613.51
Miscellaneous items.....	1,000.00	.....	1,000.00	.....	12.00	988.00
<i>Office of the First Assistant Postmaster-General.</i>						
Compensation to postmasters.....	15,600,000.00	319,286.82	15,919,286.82	20,637.79	15,917,693.25	1,593.57
Compensation to clerks in post-offices.....	8,860,000.00	.....	8,860,000.00	500,000.00	8,768,748.26	91,251.74
Rent, light, and fuel for first and second class offices.....	802,000.00	.....	802,000.00	51,165.66	795,612.28	6,387.72
Rent, light, and fuel for third-class offices.....	630,000.00	.....	630,000.00	20,000.00	574,323.48	55,676.52
Miscellaneous items, including office furniture.....	125,000.00	.....	125,000.00	15,000.00	113,758.64	11,241.36
Free-delivery service	11,254,900.00	.....	11,254,900.00	499,957.00	11,245,536.37	9,363.63
Stationery in post-offices.....	57,000.00	.....	57,000.00	.....	32,545.73	24,454.27
Wrapping twine.....	90,000.00	.....	90,000.00	20,000.00	81,603.40	8,396.60
Wrapping paper.....	60,000.00	.....	60,000.00	3,378.00	50,039.00	9,961.00
Letter balances, scales, and test weights.....	18,000.00	.....	18,000.00	.....	7,220.35	10,779.65
Postmarking and rating stamps.....	40,000.00	.....	40,000.00	.....	29,199.16	10,800.84
Packing boxes, sawdust, etc.....	1,500.00	.....	1,500.00	.....	1,026.43	473.57
Printing facing slips, slide labels, etc.....	10,000.00	.....	10,000.00	3,000.00	7,371.21	2,628.79
<i>Office of the Second Assistant Postmaster-General.</i>						
Inland mail transportation—railroads	24,500,000.00	1,269,000.00	25,769,000.00	1,397,521.96	25,757,756.46	11,243.54
Inland mail transportation—special facilities.....	196,614.22	.....	196,614.22	.....	163,035.67	33,578.55
Inland mail transportation—star	5,945,000.00	.....	5,945,000.00	100,000.00	5,864,717.03	80,282.97
Inland mail transportation—steamboat.....	450,000.00	.....	450,000.00	15,000.00	416,679.26	33,320.74
Mail-messenger service.....	1,275,000.00	.....	1,275,000.00	72,969.98	1,211,022.85	63,977.15
Mail bags and catchers.....	260,000.00	.....	260,000.00	.....	250,662.45	9,337.55
Mail locks and keys.....	35,000.00	.....	35,000.00	.....	34,913.39	86.61
Repair shop for mail bags.....	8,500.00	.....	8,500.00	2,000.00	8,491.52	8.48
Railway post-office car service.....	2,941,000.00	.....	2,941,000.00	131,250.00	2,923,709.90	17,290.10
Railway post-office clerks.....	6,894,000.00	.....	6,894,000.00	261,611.36	6,878,673.73	15,326.27
Miscellaneous items.....	500.00	.....	500.00	.....	490.89	9.11
Transportation of foreign mails.....	1,600,000.00	.....	1,600,000.00	384,260.93	1,283,893.51	316,106.49
Balance due foreign countries.....	110,000.00	.....	110,000.00	22,500.00	110,000.00	.....

Office of the Third Assistant Postmaster-General.

Manufacture of postage stamps.....	376, 200. 00	.....	376, 200. 00	20, 891. 65	338, 745. 35	37, 454. 65
Distribution of postage stamps.....	12, 000. 00	.....	12, 000. 00	3, 000. 00	9, 094. 75	2, 905. 25
Manufacture of stamped envelopes.....	1, 110, 000. 00	.....	1, 110, 000. 00	63, 000. 00	901, 999. 33	208, 000. 67
Distribution of stamped envelopes.....	17, 800. 00	.....	17, 800. 00	.....	17, 422. 16	377. 84
Manufacture of postal cards.....	343, 700. 00	.....	343, 700. 00	59, 765. 70	177, 327. 21	166, 372. 79
Distribution of postal cards.....	7, 800. 00	.....	7, 800. 00	.....	6, 730. 10	1, 069. 90
Registered-package, tag, official, and dead-letter envelopes.....	113, 600. 00	.....	113, 600. 00	2, 400. 00	88, 690. 89	24, 909. 11
Ship, steamboat, and way letters.....	1, 500. 00	.....	1, 500. 00	100. 00	951. 87	548. 13
Engraving, printing, and binding drafts and warrants.....	3, 200. 00	.....	3, 200. 00	.....	.....	3, 200. 00
Special-delivery service.....	261, 237. 46	.....	261, 237. 46	4, 559. 95	261, 237. 46	.....
Miscellaneous items.....	500. 00	.....	500. 00	.....	83. 00	417. 00

Office of the Fourth Assistant Postmaster-General.

Mail depredations and post-office inspectors.....	235, 000. 00	.....	235, 000. 00	3, 727. 29	198, 245. 67	36, 754. 33
Total	84, 265, 551. 68	1, 593, 286. 82	85, 858, 838. 50	3, 639, 372. 24	84, 551, 650. 50	1, 307, 188. 00
Decrease.....	.....	.....	.....	41, 127. 29	.....	.....
Net increase .....	.....	.....	.....	3, 598, 244. 95	.....	.....

APPENDIX H.

Appropriations and expenditures for the Post-Office Department—Continued.

[Decrease in black figures.]

1893.						
Title of appropriation.	Appropriation.	Deficiency.	Total.	Increase over 1892.	Expenditures.	Surplus.
<i>Office of the Postmaster-General.</i>						
Advertising	\$18,000.00	\$2,197.74	\$20,197.74	\$14,732.20	\$20,197.74	.....
Miscellaneous items	1,000.00	.....	1,000.00	500.00	339.07	\$660.93
<i>Office of the First Assistant Postmaster-General.</i>						
Compensation to postmasters.....	15,250,000.00	648,649.03	15,898,649.03	593,827.56	15,897,501.12	1,147.91
Compensation to clerks in post-offices.....	8,360,000.00	.....	8,360,000.00	300,000.00	8,345,078.88	14,921.12
Rent, light, and fuel for first and second class offices	747,000.00	3,834.34	750,834.34	19,334.34	750,826.13	8.21
Rent, light, and fuel for third-class offices.....	610,000.00	.....	610,000.00	17,200.00	543,928.73	66,071.27
Miscellaneous items, including office furniture.....	110,000.00	.....	110,000.00	22,000.00	108,406.66	1,593.34
Free-delivery service	10,754,943.00	.....	10,754,943.00	662,401.00	10,690,816.04	64,126.96
Stationery for post-offices.....	57,000.00	.....	57,000.00	.....	56,026.49	973.51
Wrapping twine	85,000.00	25,000.00	110,000.00	25,000.00	108,952.00	1,048.00
Wrapping paper	56,622.00	.....	56,622.00	3,378.00	47,549.94	9,072.06
Letter balances, scales, and test weights	18,000.00	.....	18,000.00	.....	12,267.43	5,732.57
Postmarking and rating stamps	40,000.00	.....	40,000.00	40,000.00	27,228.91	12,771.09
Packing boxes, sawdust, etc.....	1,500.00	.....	1,500.00	500.00	1,200.67	299.33
Printing facing slips, slide labels, etc.....	7,000.00	.....	7,000.00	1,000.00	6,116.14	883.86
<i>Office of the Second Assistant Postmaster-General.</i>						
Inland mail transportation—railroads	23,633,657.51	737,820.53	24,371,478.04	1,821,349.73	24,371,477.09	.95
Inland mail transportation—special facilities.....	196,614.22	.....	196,614.22	98,807.57	193,335.23	3,278.99
Inland mail transportation—star	5,845,000.00	.....	5,845,000.00	47,730.51	5,700,086.17	144,913.83
Inland mail transportation—steamboat	465,000.00	.....	465,000.00	60,000.00	404,647.21	60,352.79
Mail-messenger service.....	1,200,000.00	2,030.02	1,202,030.02	2,030.02	1,202,012.44	17.58
Mail bags and catchers.....	260,000.00	.....	260,000.00	.....	259,986.86	13.14
Mail locks and keys.....	35,000.00	.....	35,000.00	10,000.00	34,881.60	118.40
Repair shops for mail bags.....	6,500.00	.....	6,500.00	.....	6,476.84	23.16
Railway post-office car service.....	2,809,750.00	.....	2,809,750.00	78,750.00	2,795,624.53	14,125.47
Railway post-office clerks.....	6,631,000.00	1,388.64	6,632,388.64	279,388.64	6,632,381.73	6.91
Miscellaneous items.....	500.00	.....	500.00	500.00	500.00	.....
Transportation of foreign mails.....	1,102,290.00	113,449.07	1,215,739.07	34,260.93	1,215,285.90	453.17
Balance due foreign countries.....	87,500.00	.....	87,500.00	72,500.00	87,500.00	5,172.49

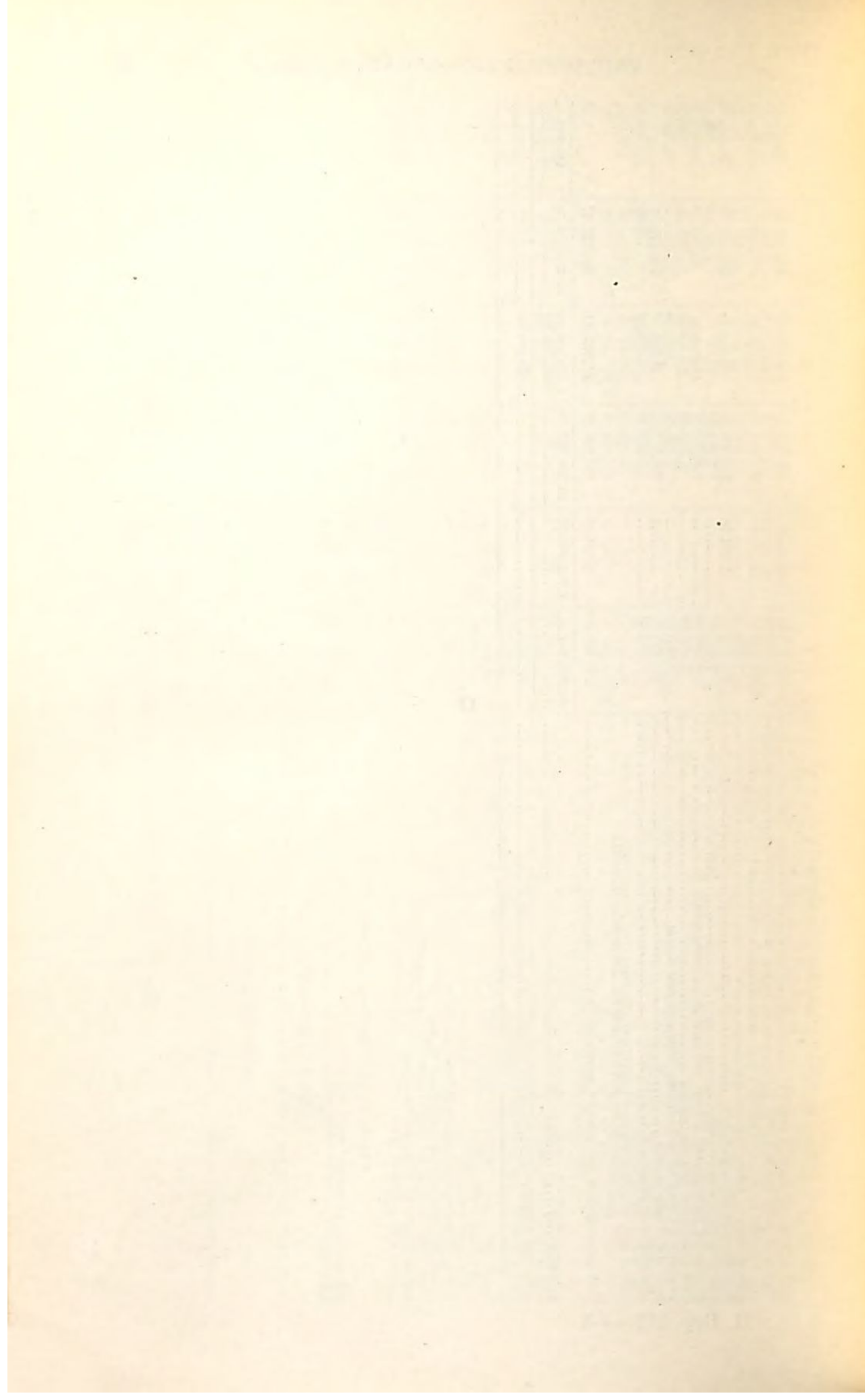
Office of the Third Assistant Postmaster-General.

Manufacture of postage stamps.....	219, 700. 00	135, 608. 35	355, 308. 35	152, 308. 35	312, 110. 93	43, 197. 42
Distribution of postage stamps.....	9, 000. 00	.....	9, 000. 00	.....	8, 820. 00	180. 00
Manufacture of stamped envelopes.....	1, 047, 000. 00	.....	1, 047, 000. 00	114, 000. 00	995, 360. 70	51, 634. 30
Distribution of stamped envelopes.....	17, 800. 00	.....	17, 800. 00	.....	17, 017. 77	782. 23
Manufacture of postal cards.....	212, 000. 00	71, 934. 30	283, 934. 30	69, 934. 30	258, 930. 86	25, 003. 44
Distribution of postal cards.....	7, 800. 00	.....	7, 800. 00	.....	7, 031. 05	768. 95
Registered package, tag, official, and dead-letter envelopes.....	116, 000. 00	.....	116, 000. 00	11, 000. 00	95, 334. 30	20, 665. 70
Ship, steamboat, and way letters.....	1, 400. 00	.....	1, 400. 00	1, 100. 00	910. 74	3, 489. 26
Engraving, printing, and binding warrants and drafts.....	3, 200. 00	.....	3, 200. 00	800. 00	.....	3, 200. 00
Special-delivery service.....	256, 677. 51	.....	256, 677. 51	44, 942. 08	256, 677. 51	.....
Miscellaneous items.....	500. 00	.....	500. 00	500. 00	223. 33	276. 67
	235, 000. 00	3, 727. 29	238, 727. 29	44, 337. 71	238, 725. 97	1. 32
Mail depredations and post-office inspectors.....	80, 514, 954. 24	1, 745, 639. 31	82, 260, 593. 55	4, 180, 466. 02	81, 711, 779. 71	548, 813. 84
Decrease.....	.....	.....	.....	463, 646. 92	.....	.....
Net increase.....	.....	.....	.....	3, 716, 819. 10	.....	.....

Office of the Fourth Assistant Postmaster-General.

Mail depredations and post-office inspectors.....	235, 000. 00	3, 727. 29	238, 727. 29	44, 337. 71	238, 725. 97	1. 32
Decrease.....	80, 514, 954. 24	1, 745, 639. 31	82, 260, 593. 55	4, 180, 466. 02	81, 711, 779. 71	548, 813. 84
Net increase.....				463, 646. 92		

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HENRY S. PRATT.

FEBRUARY 27, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. FENTON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 2451.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2451) to correct the records of the War Department in the case of Capt. Henry S. Pratt, having considered the same, report the bill back to the House with the recommendation that it do pass.

REPORT FROM WAR DEPARTMENT.

The records show that Henry S. Pratt was mustered in as first lieutenant Tenth New York Cavalry to date September 27, 1861, and as captain to date December 12, 1861, for three years.

He performed active field duty until August 31, 1862, when he was captured by the enemy. After his exchange he rejoined his command December 19, 1862, and served with it until on or about May 5, 1863, when he and eight other officers of his regiment were summarily dismissed by order of the War Department. * * *

The facts connected with his dismissal are as follows: On the 21st of April, 1863, Col. John C. Lemon, Tenth New York Cavalry, and Capt. Delos Carpenter, of the same regiment, made affidavit that Captain Pratt had by falsehood and fraud obtained from the Government the sum of \$86.80 for the pretended use and risk of one horse and equipments for two hundred and seventeen days, whereas he was only entitled to such pay for the term of seventy-eight days.

The affidavits were referred to the Judge-Advocate-General, who, on April 22, 1863, forwarded them to the Secretary of War with the recommendation that Captain Pratt and the other eight officers be dismissed and their pay withheld and applied to reimburse the Government.

After ineffectual efforts looking to a revocation of the dismissal the case was reopened, on the request of Colonel Irvine, who succeeded Colonel Lemon in command of the Tenth New York Cavalry, and was referred by the Secretary of War to General Canby for report. After a careful examination of the facts that officer, on the 17th of January, 1864, reported as to the merits of the case and recommended that the disability incident to Captain Pratt's dismissal be removed.

The following is a copy of General Canby's report in the case:

WAR DEPARTMENT,
Washington City, January 7, 1864.

W. W. Paige, Henry Field, Henry S. Pratt, John Ordner, L. S. Baldwin, late captains of the Tenth New York Volunteer Cavalry, ask to be reinstated, having been dismissed May 4, 1863, on charge of "fraudulently receiving from the Government pay for risk and use of horses while they did not have horses."

It appears that charges of the above nature were preferred against these officers and four others, since reinstated, by I. C. Lemon, late colonel, and D. Carpenter, late captain, of that regiment, who both resigned when on the point of being tried on charge of incompetency, etc. Lemon's statement, as shown by letters of Hon. Thomas T. Davis, Lieutenant-Colonel McIrvine, Tenth New York Cavalry, and others, is not entitled to credence, and has, in fact, been disproved by the reinstatement of four of the officers against whom he preferred charges, and by his own recommendation to that effect in the cases of Captain Field and three others.

It seems that these officers charged the Government from the dates of their commissions (part of the time before the regiment was complete and ordered into the field) with 40 cents per day "for the use and risk of their own horses and horse equipments," and received pay for same in the summer of 1862; that Colonel Lemon himself called their attention to this claim, and recommended them to make out their papers, and that he did not make the charges upon which they were dismissed until nine months after they had received the money.

Captain Ordner stated under oath that until he purchased a horse in Baltimore, in the spring of 1862, and for the whole time charged previous to that date, he had at his command and owned a horse at his home in Buffalo.

Captain Pratt makes a similar statement, supported by the evidence of Lieutenant-Colonel McIrvine, Tenth New York Cavalry.

Captains Paige, Baldwin, and Field state under oath that up to the time they purchased their horses they had each a hired horse constantly at their disposal and in use whenever required. These statements are supported by the sworn evidence of the parties hiring the horses.

No mention is made, in either of these five cases, of equipments.

These officers were dismissed without a hearing, and on the statements only of Lemon and Carpenter.

The Judge-Advocate-General considered that a revocation of the order of dismissal was not justified, from the apparent fact that these officers did not actually have, use, and risk their own horses and equipments, as required by act of Congress, July 22, 1861.

On the other hand, the officers claim that they were told by Colonel Lemon that this allowance was part of their pay and emoluments, the same as subsistence and forage, and that this view was approved by Major Turner, to whom the case was submitted in the first instance, and who dismissed the charge as frivolous.

These officers all produce certificates from general and field officers showing their character as gentlemen and as brave and faithful officers and good disciplinarians. They disclaim any intention of wronging the Government.

The abuse for which these officers were dismissed was common at the time, under the false impression that this allowance was a part of their pay and emoluments; and this abuse had its influence in causing the repeal of the original law so far as company officers were concerned. There is no question that the charges were made in violation of the law.

Four of the nine officers who were dismissed under this charge of fraud have been restored, and it seems just that at least Captains Ordner and Pratt (who certify under oath that they actually owned horses during the time charged), if not also Captains Paige, Baldwin, and Field (who hired horses), should receive the same favorable consideration.

Respectfully submitted, with the recommendation that the disability be removed in all these cases.

ED. R. S. CANBY,
Brigadier-General, Assistant Adjutant-General.

Thereupon the Secretary of War, on February 6, 1864, removed the disability resulting from the dismissal.

Official statement furnished by Hon. Theodore L. Poole, M. C.

By authority of the Secretary of War:

F. C. AINSWORTH,
Colonel, United States Army, Chief Record and Pension Office.

RECORD AND PENSION OFFICE,
War Department, January 29, 1896.

In view of the fact that Captain Pratt is exonerated in the foregoing report, which shows that he was a faithful and competent officer, and that if he committed any error it was the fault of the colonel of his regiment, who preferred charges against the said Pratt for acting under his (the colonel's) direction, your committee are unanimous in recommending the passage of the bill.

MRS. WILLIAM LORING SPENCER.

FEBRUARY 27, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. McCLELLAN, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 4020.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4020) granting a pension of \$100 per month to Mrs. William Loring Spencer, widow of George E. Spencer, late colonel First Alabama Cavalry Volunteers, having carefully examined all the facts and circumstances in evidence, respectfully submit the following:

Soldier was appointed captain and assistant adjutant-general October 24, 1862, and served as such until September 11, 1863, when he was appointed colonel First Alabama Cavalry Volunteers, and was honorably discharged July 22, 1865. His record and service are alike honorable and meritorious.

Soldier applied for pension January 7, 1893, alleging paralysis contracted in service, but died February 19, 1893, from congestion of the brain and apoplexy, leaving the claim pending.

Widow applied and was granted pension at \$8 per month from March 8, 1893, under the act of June 27, 1890.

The testimony filed in Pension Office shows she was married to soldier September 12, 1877. That one child, George E., was born August 15, 1878. That she is now in almost destitute circumstances, and dependent upon her pension and her own efforts for support.

Your committee therefore recommend that the bill be amended by striking out all after the word "late," in line 6, and adding in place thereof the following: "Colonel First Alabama Cavalry Volunteers and pay her a pension of thirty dollars per month, in lieu of the pension which she now receives," and that the title of the bill be amended so as to read: "Granting an increase of pension to Mrs. William Loring Spencer," striking out all else, and that as amended the bill do pass.

HOMES FOR CERTAIN DEAF CHILDREN.

FEBRUARY 27, 1896.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. GROW, from the Committee on Education, submitted the following

REPORT:

[To accompany H. R. 6506.]

The Committee on Education, having had under consideration the bill (H. R. 6506) to aid in establishing homes in the States and Territories for teaching articulate speech and vocal language to deaf children before they are of school age, report the same with a recommendation in favor of its passage.

It needs no words to portray the hard fate in life of children born deaf. The mere statement of the fact is of itself sufficient to enlist the cooperation and aid of all the humane in relieving, so far as may be within their power, the hardship of those thus afflicted. The home established by the two sisters, Miss Mary S. and Miss Emma Garrett, at Philadelphia, February 2, 1892, has proven conclusively that deaf children can learn speech and vocal language just as well for all practical purposes as those who hear, provided they have proper training in infancy before they are of school age.

Your committee take the liberty of adopting as part of their report the following from the circular addressed to the public by Miss Mary S. Garrett, now the principal in conducting said home in Philadelphia:

In the past ages the deaf were the victims of deliberate as well as ignorant cruelty. In the present age they are no longer deliberately drowned as in ancient Rome, or exposed to die as under the laws of Lycurgus. But they are still largely sufferers from a modified form of the ignorance which formerly ranked them with imbeciles, and now fails to realize that they are able to learn and to do anything and everything the hearing child can if they are given precisely the same opportunity.

When a hearing baby is learning to talk the mother does not use motions to it, because it has not commenced to understand her language; but she repeats over and over again the pet names she calls it; tells it again and again to say "papa" and "mamma," etc., until it learns to understand and then copy her words. She is quick to discover, encourage, and correct its first attempt at articulation. It has been proven by experiment that if the attention of the deaf child be directed to the mouth with the same persistency, and it be talked to just the same by everyone who is with it, that it will learn the speech and language through the eye which the hearing child learns through the ear. Like the hearing child, it has a hereditary tendency to talk and only needs the same opportunity to learn. No more motions should be used with it than with the hearing child; its attention should always be guided to the mouth of the speaker and concentrated there. Little by little it will begin to attach meaning to the words and sentences it sees, just as a hearing child learns little by little to attach meaning to the words and sentences it hears.

The names of objects may be taught with the objects, which is really the way hearing children learn them in their homes. When a hearing child is learning to talk its hearing gives it the advantage of every word spoken in its presence, while the deaf child only has the advantage of seeing the mouth of the person it happens to be looking at, or who is talking to it. This difference must be made up to the

deaf child by a great amount of repetition of the words and the language it is being taught. Deaf babies begin to say "ma-ma-ma" just as hearing babies do, but as a rule they are not encouraged in repeating the word. If they were, and were properly guided to further articulation, they would talk. The ordinary practice, however, when an infant is discovered to be deaf is to make no further effort to teach it to talk or read the lips, but immediately to begin motions with it.

Just here begins the cruel system of training the deaf differently from the hearing, and making them feel from the very outset of life that they are peculiarly unlike those around them. The truth is that it is the faulty system of training that makes them different by depriving them, during their infancy, before school age, of the free and constant communication with other minds which the hearing have.

There is a popular delusion that the vocal organs of deaf children are defective. The fact is, that such cases are rare exceptions, and that as a rule their vocal organs are normal. The articulation of consonant sounds depends on certain positions of the lips, tongue, teeth, and palate. The quality of vocal sounds depends on certain positions of the tongue. Any deaf child who can cry and scream, and has lips, tongue, teeth, and palate, has the necessary vocal organs for speech.

Until society learns that by doing its whole duty to the deaf so they can become like normal people, we shall need efficiently and intelligently conducted homes for the training in speech of deaf children.

The work of this generation should be to establish such homes, and if this work is done as it ought to be, the next generation will thus learn to do the work for all deaf children in their own homes. And it will by that time become as natural to parents, and to the community, to give them exactly the same training through the eye as they give hearing children through the ear.

This bill only provides for the selection from each State and Territory of persons, to attend at the home in Philadelphia, as students to become teachers in such homes as may be established in the States and Territories for the teaching speech and vocal language to deaf children before they are of school age. It is not proposed to establish any institution or to aid any already established. This appropriation of money, therefore would require no additional or subsequent appropriations by Congress in order to make it efficient for accomplishing the object specified in the bill.

AMOS D. LE FEVRE.

FEBRUARY 27, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DE WITT, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 1249.]

The Committee on Claims, to whom was referred the bill (H. R. 1249) to refer to the Court of Claims the claim of Amos D. Le Fevre, surviving partner, on account of contract with the Government, respectfully report as follows:

Prior to October 29, 1869, a submarine boat was constructed by A. D. Le Fevre and O. S. Halsted, jr., who invited gentlemen ranking high in engineering and naval science and warfare to make experiments with her and determine her efficiency. Among those who accepted the invitation were Messrs. John Mechan, T. R. Tresilian, and R. C. Bocking, distinguished experts and engineers, and Gen. Thomas W. Sweeny, a gentleman of high standing in the Army of the United States, who made experiments with the boat, going with her under water, and certified to the success of the experiments, and her great value as a weapon of naval warfare. In this connection it may be stated that Gen. Charles P. Stone, a distinguished officer in our Federal Army, and for some years lieutenant-general of the Egyptian army, also certified to the success and value of the boat.

The certificates of Engineers Tresilian and Bocking, and of Generals Sweeny and Stone are as follows:

NEW YORK, April 18, 1866.

O. S. HALSTED, Jr.

DEAR SIR: In answer to your request for an opinion of your submarine boat, I cheerfully assure you of my entire confidence in its ability to accomplish all that is claimed for it, either as a novel and invaluable engine of war, or for all practicable purposes, where the most perfect diving bell could be used.

I have repeatedly examined the peculiar construction and method of operating the vessel. Have, with you, your brother Abe, and several of your children, including one of your daughters, been twice down under water, on the bed of the river, and have gone through all the experiments necessary to demonstrate the ease with which she is managed in descending, ascending, or propelling her, also the certainty with which the air required, in quantity as needed, can be furnished or purified in the boat itself without communicating with the surface. By opening the doors in the bottom, the possibility of keeping the water out of the vessel at any reasonable depth, and under any given pressure, was fully proved.

I am strongly fortified in my opinion and estimates of the eminent success and value of the apparatus by the judgment and reports of Messrs. Mechan, Tresilian, and Bocking of my staff, distinguished experts and engineers, who, at my instance and request, made many and thorough tests, and after having been repeatedly down in and had her maneuvered in all desirable ways, were entirely satisfied of her complete success.

The closing experiment of exploding 25 pounds of powder 15 feet from the boat, at depth of some 17 feet under water, made under the supervision of Colonel Tres-

ilian and Major Bocking, one of them, the Colonel, being in the boat at the time, was reported to me as a perfect success, the concussion being hardly perceptible to those on board.

All things considered, I think you may safely claim to have secured the perfection of a submarine apparatus or torpedo boat, well adapted to all practical purposes of war or peace.

Your obedient servant,

T. W. SWEENY.

We cordially unite with General Sweeny in his indorsement of the submarine boat above referred to.

JOHN MECHAN,
T. R. TRESILIAN,
R. C. BOCKING,
Engineers.

Gen. Thomas W. Sweeny, of the United States Army, being duly sworn according to law, on his oath saith: That the foregoing letter, under date of April 18, 1866, addressed to O. S. Halsted, jr., is a copy of the original given by me to Mr. Halsted at that date in reference to his submarine boat. That the facts and statements therein contained are fair and truthful representations of the boat, and the experiments made partly under my direction, and partly under the directions of Messrs. Mechan, Tresilian, Bocking, and Tevis, who acted for me and at my request.

That he knows the above-named officers and is well acquainted with their handwriting. That their names as signed to the indorsement of deponent's letter to Mr. Halsted are their true and proper signatures, and deponent has repeatedly heard one and all of them commend the boat and the experiments given as entirely successful. Deponent does not hesitate to say that he considers the vessel and apparatus to be, and to be able to accomplish, all that is claimed for her.

T. W. SWEENY, U. S. A.

Subscribed and sworn this 5th day of October, 1869, before me

O. S. HALSTED, Jr.,
Master in Chancery, N. J.

Col. John Mechan, being duly sworn according to law, on his oath saith: Am now attached to the United States Engineer Department, formerly of the United States Coast Survey. Am well acquainted with the submarine boat known as Pet Halsted's "Intelligent Whale." Have repeatedly been down under water in her, and have gone through all the experiments necessary to prove her a thorough and undoubted success. The above letter to which General Sweeny refers, was fully indorsed by me, as also by Messrs. Tresilian, Tevis, and Bocking, whose names are appended thereto. I consider the boat most perfect in her design and appointments, and capable of performing all that is claimed for her. Am ready to join and go with her at short notice on an experimental whaling, fighting, or treasure trip.

JOHN MECHAN.

Subscribed and sworn this 5th day of October, 1869, before me

O. S. HALSTED, Jr.,
Master of Chancery of New Jersey.

There is also on file a letter from Major Bocking (copy not obtained) describing the explosion of 25 pounds of powder mentioned in report above; he states that it threw up a column of water of 150 tons to a height of 25 to 30 feet, and that Colonel Tresilian reported that the concussion was scarcely perceptible in the boat where he was.

NEW YORK CITY, February 10, 1886.

A. D. LE FEVRE, Esq.,
New York.

DEAR SIR: On the 1st February instant, at your request, I visited the Brooklyn Navy-Yard for the purpose of examining the Halsted submarine boat, called familiarly "Halsted's Intelligent Whale," which is there kept in the ordnance yard. I learned from you that it has been in same position during the past twelve years or more.

With the kind permission of the authorities of the navy-yard, I was enabled to examine in detail the exterior and interior of the boat, and study the principles of its construction.

From the examination then made I am satisfied that the principle of the boat is a correct one, and that the arrangement of water chambers and condensed-air reservoirs is such that the object in view in such a construction is skillfully attained, i. e., that of enabling one to certainly and safely submerge the boat to any desired depth and to cause it to rise to the surface of the water at will.

The boat, while submerged, can be propelled in any desired direction and at any depth desired.

It is supplied with windows, permitting those within to observe objects outside, and while I make no calculations regarding the size of the condensed-air reservoirs, there can be no difficulty in so arranging them as to give the capacity of safely remaining below the surface for many hours at a time.

It needs no further description to make it evident that this submarine boat can be made a most important factor in the attack and defense of harbors and the approaches to harbors.

In the attack it would be of great service in secretly exploring for torpedoes and rendering them unserviceable, as well as in attacking any naval vessels or floating batteries employed in the defense.

In the defense of harbors and their approaches, the boat would be very valuable in placing torpedoes and cables, in guarding them, and in repairing damages to them. She would also be a very formidable means of direct attack on invading vessels.

Very respectfully, I am, dear sir, your obedient servant,

CHAS. P. STONE, *Lieutenant-General.*

And the Government, through the Navy Department, regularly appointed a commission, composed of Commodore Melancthon Smith, Commodore Augustus L. Case, Chief of Bureau of Ordnance, and Edward O. Matthews, Chief of the Torpedo Bureau, to examine, inspect, and report on the merits of said boat; and the report of this commission of naval officers and experts having sustained the capacity and efficiency of the boat for submarine purposes, the Government, through Hon. George M. Robeson, Secretary of the Navy, purchased said boat through O. S. Halsted, jr., one of said partners, agreeing to pay therefor \$50,000, as follows:

Twelve thousand five hundred dollars on the transfer of said boat and apparatus to the Government, free and clear of incumbrances.

Twelve thousand five hundred dollars, if experiments to be given under the superintendence of a navy officer, or board of navy officers, to be designated therefor by the Secretary of the Navy, should be successful.

Twenty-five thousand dollars when the Government should be put in possession of all the inventions, secrets, and contrivances necessary to enable competent persons to operate and manage said boat.

Such further sum as a board of naval officers, to be created for the purpose, should decide the invention to be fairly worth.

Said contract is as follows:

CONTRACT.

Whereas Oliver S. Halsted, jun., of the city of Newark, county of Essex, and State of New Jersey, proposes to transfer to the Navy Department the iron "submarine boat" and apparatus now on the dock of Hewes & Phillips, of the city of Newark aforesaid, being the same boat lately examined and inspected by Commodore Melancthon Smith, Commodore Augustus L. Case, and Edward O. Matthews, Chief of the Torpedo Bureau of the Navy Department, by direction of the Hon. George M. Robeson, Secretary of the Navy, and in reference to which said officers made favorable report; now, it is hereby understood and agreed that said transfer is made in accordance with the following stipulations, conditions, and agreements:

Said Halsted on executing such transfer, and conveying said boat and apparatus to the Government free and clear of all claims and incumbrances, by making and signing this agreement, shall receive the sum of twelve thousand five hundred dollars (\$12,500), as and for a first payment of said boat, and for the purpose of completing and fitting her to give the experiments necessary to prove her efficiency and success.

Said experiments to be substantially the same as heretofore given in the Passaic River at Newark aforesaid, and particularly referred to in a letter of General Thomas W. Sweeny, U. S. Army, under date of April 18th, 1866, a sworn copy of which is now on file in the Navy Department, or such portions of said experiments as shall be designated by the Secretary of the Navy, and as may prove satisfactory.

That said boat shall, upon such payment, become the property of the Government, and remain in the custody of some person designated for the purpose by the Secretary of the Navy, but shall be, by the said Halsted, put in order to give the afore-said experiments on or before the first day of January, 1870.

That when said boat is so finished and ready for test and trial, said Halsted shall notify the Secretary of the Navy, and the experiments required shall be given under the superintendence of such navy officer or officers, or representatives of the Secretary, as he may designate.

That after said experiments shall be concluded, if successful, said Halsted shall then be entitled to receive, and there shall be paid over to him, the further sum of twelve thousand five hundred dollars (\$12,500). And it is hereby understood and agreed that said Halsted shall write out fully and describe, without reservation, all the inventions, secrets, and contrivances necessary to enable any competent person or persons to operate and manage said boat as contemplated, desired, or designed, more especially the method or methods of furnishing, managing, controlling, purifying, and renewing the *air when and in quantity* as needed, so as to enable those in the boat to descend and ascend or remain under water any reasonable length of time; also to open the doors in the bottom of the boat and keep the water from coming therein at any reasonable and regulated depth, and when the same shall have been tested and proved successful, said Halsted shall be entitled to receive, in a reasonable time, not exceeding ——— months thereafter, the further sum of twenty-five thousand dollars (\$25,000).

And it is further understood and agreed that said Halsted shall also receive such other and additional sum and compensation, in consideration of the value of the inventions and secrets revealed, and the disclosure and application thereof as afore-said, and the transfer of the said boat and apparatus, as may be agreed upon and fixed by a board of naval officers, a majority of whom shall not be below the rank of captain, to be designated by the Secretary. But the said Halsted, in addition to any award so made by said board, shall retain the right to apply to Congress for such other and further compensation and acknowledgement of his inventions, secrets, and services as may be deemed just and proper.

Signed and delivered this twenty-ninth day of October, A. D. eighteen hundred and sixty-nine, at Washington, D. C.

GEO. M. ROBESON,
Sec'y of Navy.

O. S. HALSTED, Jr.

An erasure on the 3d page and one on the 4th page made and written over before signing.

G. M. R.

I certify that the above is a correct copy of a copy of O. S. Halsted's contract.

H. A. WALKE,
2d Clerk, Acting 1st Clerk to Comd't.

U. S. NAVY-YARD,
New York, Sept. 10, 1872.

The boat was then in possession of Hewes & Phillips, at their iron works at Newark, N. J., and was left in their possession by the Secretary of the Navy to be completed and fitted for the experiments according to said contract, and the Government paid \$10,000 of the first payment, retaining \$2,500 against any balance of account that might be due said Hewes & Phillips.

On January 1, 1870, the boat then being the property of the Government was not yet ready for the experiments, and on April 25, 1870, the Secretary of the Navy, in an official communication to said Hewes & Phillips, requested them to notify the Department and said Halsted when the boat was in complete order for the experiments and ready to put into the water, authorizing a draft on the Department for the balance of their account, and directing the delivery of the boat to Commander A. J. Drake for transfer of the same to the Brooklyn Navy-yard.

On April 29, 1870, Hewes & Phillips informed the Secretary of the Navy that the boat was in complete order, and on May 10, 1870, a warrant of the Ordnance Bureau was issued to Hewes & Phillips for the balance of their bill for completing and fitting the boat, amounting to \$2,050.

On May 27, 1870, the boat was delivered to Commander Drake, in conformity with the order of the Secretary of the Navy, and by said commander taken to the Brooklyn Navy-Yard, and she has ever since been in the exclusive possession of the Government.

On June 4, 1870, a warrant was issued by the Ordnance Bureau to said Halsted for the balance of said first payment of \$12,500.

In July, 1870, said Halsted was instantly killed, and although the capital invested in the construction of the boat had been supplied by his partner, Mr. Le Fevre, the negotiations with the Government had been carried on by Mr. Halsted for the benefit of himself and Le Fevre.

On September 4, 1871, the Secretary of the Navy, by a communication, admitted the obligations of the Government as to the boat, and on January 20, 1872, issued an order to Rear-Admiral M. Smith, commanding at the Brooklyn Navy-Yard, directing him to permit an examination of the boat, that it might be put in order for the experiment.

Mr. Abel H. Halsted was designated to conduct the negotiations with the Navy Department in relation to the experiments on the boat, and on September 2, 1872, said Abel H. Halsted received an official communication from Rear-Admiral A. Ludlow Case, Chief of the Bureau of Ordnance, stating that a board of officers had been ordered to witness and report on the experiments. Preparations were pushed by Mr. Le Fevre and the Department notified that everything would be in readiness by September 20.

On September 16 some changes were made in the organization of the board, and on September 18 an order was received at the navy-yard from the Navy Department, signed by Commander Case, Acting Secretary, to stop all experiments and adjourn the board.

It was afterwards ascertained that the cause of this order was a telegram to the Navy Department by one N. N. Halsted, a mere interloper, who had no interest whatever in said boat, and was not of the family of the deceased, O. S. Halsted, jr.

By decree of the court of chancery of New Jersey in September, 1865, and before the making of said contract with the Government, the title to said boat was settled to be in said Halsted and Le Fevre and the family of said O. S. Halsted, jr., have ever since his death been in perfect accord with his said surviving partner, Le Fevre.

In 1875 Le Fevre, through his attorney, having applied to the Navy Department for a settlement of his claims, and the appointment of a new board of officers to witness the experiments as provided by the contract of October 29, 1869, the whole matter was referred to Isaiah Hanscomb, Chief of the Bureau of Construction, who, in 1876, after a careful and thorough investigation, made report upon which the Department decided that said Le Fevre was the only legal representative of the late O. S. Halsted, jr., and the owner of all remaining interest in said boat; that he had borne the expenses of the previous preparations for experiments; that he was entitled to receive \$12,500, and further, that a new board of officers should be appointed early in the ensuing year.

On this said Le Fevre again supplied the money to put the boat in order for the experiments, but a change in the administration of the Navy Department occurred before the appointment of the promised board.

A severe and protracted illness prevented Mr. Le Fevre from taking further action in the matter until after the election of 1884, when application was made to Secretary Chandler for carrying out the decision of his Department, who pleaded the brief time remaining to him in that office.

In July, 1885, Mr. Le Fevre appealed to Secretary Whitney who, in 1886, appointed a commission of experts to make a complete and thorough examination of said boat.

In July, 1886, this commission of experts consisting of Chief Engineer Moore, Ayres, and Nicoll, and Past Assistant Engineer Magee, all of the United States Navy, reported favorably in regard to the said boat.

These propositions are uncontrovertibly established:

(1) That said boat has been examined and tested by competent gentlemen, standing high in naval and military service, of unquestioned integrity and fairness, all of whom testify, and most by affidavit, that said boat will do all claimed for her by her inventors and builders.

(2) That among those who have made the several tests and experiments of said boat no adverse report as to her has ever been made by any board or person making such tests and experiments.

(3) Said Le Fevre and Halsted, through said Halsted, made said contract with the Government in good faith, and have done everything on their part to carry out the same, said Le Fevre expending moneys on a number of occasions to put said boat in readiness for tests and experiments.

(4) All laches have been on the part of the Government and none on the part of Le Fevre or Halsted.

(5) Since the delivery of said boat to Commander A. J. Drake, in accordance with the order of the Navy Department, the Government has never offered or attempted to surrender the same, but has remained in the undisputed possession thereof.

In view of all the facts, we are of opinion that Mr. Le Fevre should be permitted to go to the Court of Claims and have an adjudication as to his rights in the premises, and we therefore recommend that the bill do pass.

SALE OF PRINTED COPIES OF PATENTS.

FEBRUARY 27, 1896.—Referred to the House Calendar and ordered to be printed.

Mr. DRAPER, from the Committee on Patents, submitted the following

REPORT:

[To accompany H. R. 6195.]

The Committee on Patents, to whom was referred House bill 6195, have had the same under consideration and report as follows:

The Commissioner of Patents states that there is required by the needs of the Patent Office and of the public to be printed at least 102 copies of every patent, and that this is the case whether any of them are sold or not. There is a large accumulation of these copies, from which sales are made every day. Last year there were sold 608,392 copies, producing an income of about \$60,000.

If this measure passes, the price will be fixed by rule by the Commissioner, under the approval of the Secretary of the Interior, and the judgment of the committee is that the price might properly be 3 cents each for copies of patents if ordered by classes or subclasses—that is, ordered in classified sets of perhaps 100.

The effect of this would be, in the Commissioner's judgment, to take out of the office a considerable amount of material which might better be in the hands of the public; that useful information would thereby be disseminated as to the industrial arts; the convenience of inventors and attorneys much promoted, and, finally, the receipts of the Government from this source considerably increased. The needs of the attorneys are such that at the moderate cost of 3 cents, whole subclasses would probably be ordered in many cases where but single copies are now ordered.

The committee recommend that the bill do pass.



BELLIGERENT RIGHTS FOR CUBA.

FEBRUARY 27, 1896.—Referred to the House Calendar and ordered to be printed.

Mr. HITT, from the Committee on Foreign Affairs, submitted the following

REPORT:

[To accompany House Con. Res. No. 23.]

The Committee on Foreign Affairs, to whom was referred House Resolutions Nos. 34, 47, 89, and 157, having fully considered the same, and the numerous petitions relating to the same subject, report the following concurrent resolutions as a substitute for the said several resolutions, and recommend their adoption:

CONCURRENT RESOLUTIONS.

Resolved by the House of Representatives (the Senate concurring), That in the opinion of Congress a state of public war exists in Cuba, the parties to which are entitled to belligerent rights, and the United States should observe a strict neutrality between the belligerents.

Resolved, That Congress deplores the destruction of life and property caused by the war now waging in that island, and believing that the only permanent solution of the contest, equally in the interest of Spain, the people of Cuba, and other nations, would be in the establishment of a government by the choice of the people of Cuba, it is the sense of Congress that the Government of the United States should use its good offices and friendly influence to that end.

Resolved, That the United States has not intervened in struggles between any European governments and their colonies on this Continent; but from the very close relations between the people of the United States and those of Cuba, in consequence of its proximity and the extent of the commerce between the two peoples, the present war is entailing such losses upon the people of the United States that Congress is of opinion that the Government of the United States should be prepared to protect the legitimate interests of Americans by intervention, if necessary.

Resolved, That Congress pledges its support to the President in carrying out the foregoing resolutions.

JAMES LOYD YOUNG.

FEBRUARY 27, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ANDERSON, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 358.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 358) granting a pension to James Loyd Young, late of Company A, Sixth Kentucky Infantry Volunteers, having examined all the facts and circumstances in evidence, submit the following report:

James Loyd Young enlisted July 21, 1861, and was discharged to date July 22, 1862. He claimed pension for rheumatism and resulting disease of heart; and also for an injury of right hip incurred at the battle of Pittsburg Landing, Tenn., April 7, 1862, by being struck with a piece of timber from Shiloh church. His claim was admitted for rheumatism and resulting heart disease, and he was pensioned at \$4 from July 23, 1862; at \$8 from August 11, 1886, and at \$12 from May 7, 1890; but the claim for injury to hip was rejected after special examination on the ground of no record and no satisfactory proof of incurrence of injury to right hip in service.

The record in the War Department shows he was admitted on hospital steamer *Silver Moon* at Pittsburg Landing, Tenn., May 16, 1862, with rheumatism, and to No. 1 General Hospital, Louisville, Ky., May 20, 1862, with rheumatism, and remained there until July 22, 1862, when he was furloughed to await discharge from service. He returned to the hospital in August, 1862, but what disposition was made of him is not stated, and he was discharged by the War Department in 1878, to date July 22, 1862.

Newton Hicks, a comrade of good reputation, testifies that he saw Young in a wagon, injured, just after the battle of Pittsburg Landing and he said the injury was in the side, and he heard members of company say he was injured near Shiloh church.

John Coffey testifies that he saw Young struck with a piece of flying timber near Shiloh church, and he fell forward on his face and was lying there with the piece of timber on him when affiant last saw him. The special examiner was unable to locate or cross-examine this witness, but the adjutant-general reports him present with the company at that time. His reputation is reported variable, from "good" to "unreliable."

James G. Lindsay, whose reputation is good, testifies that when Young returned from the Army, in 1862, he was crippled and disabled so that he was obliged to walk with a cane.

Mrs. A. D. Deegan testifies substantially to the same.

The board of examining surgeons at Covington, Ky., which examined him May 7, 1890, rate him ten-eighteenths for rheumatism and resulting disease of heart, and eight-eighteenths for injury to hip.

Your committee believe that the injury to hip was incurred as alleged, and recommend that the bill do pass, granting him a pension at \$17 per month, in lieu of the pension he is now receiving, and that the bill be amended by adding after the word "received," in line 7, the words "so that he shall receive seventeen dollars per month in lieu of the pension now received."

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SILAS S. WHITE.

FEBRUARY 27, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ANDREWS, from the Committee on Invalid Pensions, submitted the following

R E P O R T:

[To accompany H. R. 4547.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4547) granting a pension to Silas S. White, have given the same due consideration and beg leave to report:

The soldier served from April, 1840, to April, 1845, in Company K, United States Infantry, and from November 21, 1861, to October, 1862, in Company G, Seventy-seventh New York Volunteers. He was pensioned by special act at \$18 per month in 1886.

It appears that the soldier was discharged October 2, 1862, on account of "an injury to the back caused by the fall of a sand bag on him at Yorktown. He is unable to assume the erect position." His disabilities have greatly increased during the past ten years.

A large number of affidavits of persons living in the neighborhood with this soldier have been filed with this committee, showing that the soldier and his aged wife are both totally unable to perform manual labor of any kind; that they have no property except a little home worth about \$600; that they have no income whatever, outside of the pension which the soldier is now drawing, and they are wholly dependent upon this pension for support; that the soldier is more than 80 years of age and his wife about 77 years of age.

This soldier was originally pensioned for injuries received in the service and in his line of duty, and that by reason of these injuries, and his total disability caused thereby, and by his extreme old age, he is entitled to an increase of pension.

Your committee, therefore, recommend that the bill be amended in line 8 by striking out the word "fifty," and inserting in lieu thereof the word "thirty," and that so amended the bill do pass.

HARRIET C. GREGG.

FEBRUARY 27, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ERDMAN, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 2006.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2006) granting a widow's pension to Harriet C. Gregg, submit the following report:

Mrs. Harriet C. Gregg, the claimant in this case, is the widow of Gen. John Irvin Gregg, who died on the 6th day of January, 1892. The widow has had a pension granted to her at the rate of \$30 per month, her case having been made special by the following order filed in the Pension Office: "Mrs. Gregg is in destitute circumstances. The Commissioner directs that in view of this fact the proper calls be made in the case and action had thereon without delay."

The following is the entire record of the military service of General Gregg:

Statement of the volunteer military service of John Irvin Gregg, late brevet brigadier-general of volunteers.

John J. Gregg (also borne as Irvin J. and Irvin I. Gregg) was enrolled December 29, 1846, and mustered into service at Pittsburg, Pa., January 4, 1847, as a private in Company D, Second Pennsylvania Infantry, to serve during the war with Mexico. He participated with the regiment in the engagement at Cerro Gordo, Mexico, April 18, 1847, and was discharged at Jalapa, Mexico, May 15, 1847, by reason of promotion to the grade of first lieutenant Eleventh United States Infantry.

J. Irvin Gregg is reported on the muster-out roll of Company E, Fifth Pennsylvania Reserve Infantry Volunteers, late war, as captain, enrolled at Harrisburg, Pa., June 8, 1861, to serve three years. It does not appear, however, that he was mustered in or rendered any service in this regiment, he having already received an appointment in the regular service.

John J. Gregg (also borne as J. Irvin Gregg) was mustered into service at Harrisburg, Pa., November 14, 1862, as colonel of the Sixteenth Pennsylvania Cavalry Volunteers, to serve three years. Under the provisions of the act of Congress approved June 3, 1884, he is considered by this Department as commissioned to the grade of colonel, Sixteenth Pennsylvania Cavalry Volunteers, to take effect from October 26, 1862. He was brevetted brigadier-general of United States Volunteers, to date August 1, 1864, "for gallant and distinguished services in the defense of Richmond on the Brock turnpike and Trevilian Station, Virginia," and was brevetted major-general United States Volunteers, to date March 13, 1865, "for gallant and meritorious services."

He was detached from his regiment and assigned to the command of the Second Brigade, Second Division, Cavalry Corps, Army of the Potomac, some time in March, 1863, and served in command of that brigade and in command of the Third Brigade of the same division (except when absent with leave and for a short time in January and February, 1864, when he was absent on court-martial duty in Washington), until December 29, 1864, when he was assigned to duty according to his brevet rank as brigadier-general of volunteers. He continued to serve in command of the Second

Brigade, Second Division, Cavalry Corps, and for a short period in command of the division itself, until April 7, 1865, when he was captured by the enemy. Upon his exchange as a prisoner of war he was assigned, May 25, 1865, to the command of the district of Lynchburg, Va., and was mustered out of service, with the field and staff of the Sixteenth Pennsylvania Cavalry Volunteers, August 11, 1865, at Richmond, Va.

He received a gunshot wound of the right forearm at the battle of Charles City road August 16, 1864, and also received a similar wound in the ankle at the battle of Hatchers Run, Virginia, February 6, 1865.

He participated with his regiment in the action at Hartwood Church, Virginia, February 25, 1863, and Kellys Ford, March 17, 1863, and with his brigade in the campaign of Gettysburg, Pa., including actions at Aldie, Va., June 17, 1863; Middleburg, June 19, 1863; Upperville, June 21, 1863; Gettysburg, Pa., July 2 and 3, 1863, and Shepardstown, Va., July 16, 1863; and actions in and around Bristoe Station, October 11-13, 1863. He also took part with his brigade in nearly all the operations of the cavalry corps under General Sheridan from the Rapidan to the James and from the James to the Appomattox, in the Wilderness and Richmond campaigns, from May, 1864, to April, 1865, and was in most of the cavalry engagements of that eventful period, including Todds Tavern, Virginia, May 7, 1864; Trevilian Station, June 11, 1864; Deep Bottom, July 28, 1864; Charles City road, August 16, 1864; Stoney Creek, December 1, 1864; Hatchers (or Gravelly) Run, February 6, 1865; Dinwiddie Court-House, March 31, 1865; Five Forks, April 1, 1865; Jetersville, April 5, 1865; Sailors Creek, April 6, 1865, and Farmville, April 7, 1865.

He is mentioned by Major-General Pleasanton, commanding the cavalry corps, in his report of the Gettysburg campaign, for his meritorious and gallant conduct throughout that campaign, and also by Brig. Gen. D. McM. Gregg, commanding the second division of the cavalry corps, in his report of the same campaign. General Gregg says: "Too much credit can not be given to Brig. Gen. J. Kilpatrick and Col. J. I. Gregg, commanding, respectively, the Second and Third Brigades of this division, for the brave manner in which they performed their duties as brigade commanders." Gen. D. McM. Gregg, in his report of his division immediately subsequent to the battle of Gettysburg (referring to the action at Shepardstown, July 16, 1863), also says: "Col. J. I. Gregg, commanding the Third Brigade, displayed the highest soldierly qualities in this action of his brigade. In the midst of his men, his coolness and bravery inspired them with confidence in his ability to hold their position." Again, Gen. D. McM. Gregg, in his report of the operations of his division from the 11th to the 16th of October, 1863, says: "Col. J. Irvin Gregg, Sixteenth Pennsylvania Cavalry, and J. P. Taylor, First Pennsylvania Cavalry, commanding, respectively, the Second and First Brigades, were in this engagement all that could be asked. Their well-established reputations as brigade commanders are too well known to require other mention."

Major-General Sheridan, commanding the cavalry corps, in his announcement of the action at Todds Tavern, May 7, 1864, says: "The cavalry made a very handsome fight here this afternoon. We found the whole rebel cavalry here, and Hampton's and Fitzhugh Lee's, and drove them on the Spottsylvania road about 3 miles. They were very handsomely repulsed. I had only four brigades, Merritt's, Davies's, Colonel Gregg's, and Colonel Devins's. They all behaved splendidly." General Sheridan, in his report of the cavalry raid toward Richmond, May 9 to 16, 1864, also says: "I am very much indebted to * * * division commanders, and * * * Colonel Gregg, * * * brigade commanders. Their services are worthy of the very highest praise." General Sheridan, in his report of the operations of the cavalry corps, covering the period from April to August, 1864, also says, "To the generals * * * J. Irvin Gregg, and the gallant officers and men of other commands, and to the officers of my staff, I return my sincere thanks."

Gen. D. McM. Gregg, in his report of the operation of the division from May 4 to July 7, 1864, says: "Brig. Gen. H. E. Davies, jr., United States Volunteers, and Col. J. Irvin Gregg, Sixteenth Pennsylvania Cavalry, commanding, respectively, the First and Second Brigades, are deserving of my highest commendation for the great ability and untiring energy displayed by them as commanders; skillful in handling their brigades, they accomplished handsomely whatever they undertook."

Maj. Gen. George Crook, who commanded the second division, cavalry corps, subsequent to February 10, 1865, in his report of the operations of his division from March 29, 1865, to April 18, 1865, says: "I can not close this report without mentioning the marked good conduct of the command during the whole campaign and my special indebtedness to my brigade commanders, Brig. Gens. H. E. Davies, Mackenzie, Gregg, and Smith * * * for their gallant, cordial support, and the skilled manner in which they handled their commands."

Major General Sheridan, in his report of the operations of the cavalry corps during the campaign terminating with the surrender of the rebel army at Appomattox Court-House, says (with reference to the action at Dinwiddie Court-House of March 31, 1865): "In this well-contested battle the most obstinate gallantry was displayed

by my entire command. The brigade commanders, Brigadier-Generals * * * Gregg * * * in the second division, * * * vied with each other in their determined efforts to hold in check the superior force of the enemy, and the skillful management of their troops in this peculiarly difficult country entitled the brigade commanders to the highest commendation."

His promotion to the brevet grades of brigadier and major-general of volunteers was made at the instance of Generals Meade, Sheridan, Pleasanton, D. McM. Gregg, Crook, officers of the field, staff, and line of the Sixteenth Pennsylvania Cavalry and other cavalry regiments belonging to his brigade, the governor of Pennsylvania, Members of Congress from Pennsylvania, and members of the Pennsylvania State legislature, who recommended his promotion to the full grade of brigadier-general of volunteers.

General Sheridan recommended him for promotion "for gallant and meritorious service at the cavalry engagement at Dinwiddie Court-House March 31, 1865, and cavalry pursuit from Five Forks to Burkeville and Jetersville, and for cavalry engagement at that point April 5, 1865, and at the battle of Sailors Creek April 6, 1865; at the cavalry engagement on the north side of the Appomattox-River, near Farmville, Va., during which he was captured while gallantly fighting with his brigade."

Gen. D. McM. Gregg, in recommending him for promotion, says: "As a brigade commander Colonel Gregg has exhibited great ability, and the success of his brigade whenever engaged with the enemy adds to the fitness of the commander for his position. This recommendation was indorsed by General Sheridan as follows: "The within recommendation of General Gregg is highly approved. Colonel Gregg is an officer of merit, and has commanded a brigade for a long time and fought it very handsomely in the cavalry engagements. * * * He has won his promotion."

Official statement furnished to the chairman Committee on Invalid Pensions.

By authority of the Secretary of War:

F. C. AINSWORTH,

Colonel, United States Army, Chief Record and Pension Office.

RECORD AND PENSION OFFICE,

War Department, February 20, 1896.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,

Washington, February 19, 1896.

Statement of the military service of John Irvin Gregg, late of the United States Army, compiled from the records of this office.

REGULAR ARMY RECORD.

Appointed first lieutenant of infantry February 18, 1847; Eleventh Infantry, April 9, 1847; captain, September 5, 1847; honorably mustered out August 14, 1848.

SERVICE.

Served with regiment in the war with Mexico October, 1847, to July, 1848.

Appointed captain Third Cavalry May 14, 1861; Sixth Cavalry, August 3, 1861; colonel Eighth Cavalry, July 28, 1866; retired April 2, 1879.

Brevet rank.—Major, March 17, 1863, for gallant and meritorious services on the battle of Kellys Ford, Virginia lieutenant-colonel, October 12, 1863, for gallant and meritorious services in action at Sulphur Springs, Va.; colonel, October 7, 1864, for gallant and meritorious services in the battle of Deep Bottom, Virginia, and brigadier-general, March 13, 1865, for gallant and meritorious services in the field during the war.

SERVICE.

He joined his regiment August 14, 1861, and served with it in the defenses of Washington to March 10, 1862; in the field in Virginia in Army of the Potomac to October 22, 1862, when granted leave to accept appointment as colonel Sixteenth Pennsylvania Cavalry, and was honorably mustered out of the volunteer service August 11, 1865.

He was on duty as inspector in the Bureau of Refugees, Freedmen and Abandoned Lands, in Louisiana, October, 1865, to November, 1866.

He joined the Eighth Cavalry December 28, 1866, and commanded his regiment and post of Benicia Barracks, Cal., to January, 1867; en route to and at Whipple

Barracks, Ariz., also commanding district of Prescott, Ariz., to December, 1867; commanding district of Nevada to July 31, 1869; on leave to September 3, 1869; commanding regiment and post of Camp Halleck, Nev., to May 13, 1870; Fort Union, N. Mex. (being frequently in field operating against hostile Indians), to February 1, 1871; commanding district of New Mexico to May 1, 1871; regiment and post of Fort Union, N. Mex. (on leave October 5 to December 16, 1871), to May 27, 1873.

At Santa Fe, N. Mex., commanding regiment and district of New Mexico, May 27, 1873 (on sick leave October 22, 1874, to June 5, 1875), to October 31, 1875; commanding regiment and on the march to and at Fort Clark, Tex., to September 30, 1876.

Superintendent mounted recruiting service October 6, 1876, to October 1, 1878, and on sick leave until retired, April 2, 1879, on account of disability contracted in line of duty.

He died at Washington, D. C., January 6, 1892.

W. P. HALL, *Assistant Adjutant-General*.

The said Mrs. Gregg submitted to the whole committee her own affidavit and also that of two of her neighbors, showing that she has no means of support and has no property whatever, and her dependence rests entirely on a pension.

General Gregg's long service, embracing not only the Mexican war and war of the rebellion, but also on the Western plains during frontier troubles with the Indians, ought to give the application of this widow for this increase of pension special consideration, and the committee therefore recommend the passage of the bill.

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FRENCH W. THORNHILL.

FEBRUARY 27, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. THOMAS, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 3606.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 3606) granting a pension to French W. Thornhill, submit the following report:

A bill identical with the one under consideration was passed by both Houses of the Fifty-third Congress, but reached the President so late that it did not receive Executive approval. The same bill was passed by the House in the Fifty-second Congress. In addition to the evidence laid before previous Congresses, the claimant has filed with your committee a number of affidavits of a medical character showing that he is at present totally incapacitated from the practice of his profession and almost totally incapacitated from the performance of labor of any kind by reason of the increasing disability directly attributable to the wound he received during the war.

Your committee believe this to be a very meritorious measure and recommend its passage, incorporating as part of our report the statement of facts contained in the report of the Committee on Invalid Pensions of the Fifty-third Congress, as follows:

Dr. French W. Thornhill, of Spring Valley, Minn., is the son of Maj. S. P. Thornhill, deceased, a surgeon of the Eighth Wisconsin Volunteer Infantry.

The said Dr. French W. Thornhill was in the years 1861 and 1862 present with said regiment, although not mustered into the United States military service, and assisted and rendered valuable and efficient service, acting as assistant to his father in caring for the sick and wounded.

He was with said regiment in the following engagements: Iron Mountain Bridge, Missouri; Frederickstown, Mo.; Fort Henry, Fort Donelson, New Madrid, Island No. 10, Pittsburg Landing or Shiloh, Farmington, and Iuka Springs. After the battle of Iuka Springs the said Dr. French W. Thornhill, by order of General Rosecrans, was sent back to take charge of a neutral hospital, where he remained until the battle of Corinth, where he received, while in the discharge of his said duty as acting assistant surgeon of said regiment, a gunshot wound in his right hip from a rifle ball, whereby he was disabled.

The evidence also shows that the said Dr. French W. Thornhill, at the battle of Farmington, from exposure and overexertion in rendering aid and caring for the sick and wounded, received and sustained a sunstroke and contracted dysentery and chronic diarrhea, and is now greatly disabled.

MARIA B. BRINTON.

FEBRUARY 27, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MILES, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 5667.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5667) granting a pension of \$8 per month to Maria B. Brinton, widow of William P. Brinton, late lieutenant-colonel Eighteenth Pennsylvania Cavalry Volunteers, having carefully examined and considered the facts and circumstances in evidence, respectfully report as follows:

The soldier enlisted as captain Company D, Second Pennsylvania Cavalry Volunteers, and was promoted to lieutenant-colonel of Eighteenth Pennsylvania Cavalry Volunteers on May 2, 1863, and was honorably discharged January 13, 1865, having a record of gallant and meritorious service.

Soldier never filed a claim for pension. His widow filed claim for pension August 21, 1890, under act of June 27, 1890, alleging that the soldier died in South America about March, 1881. She was married to soldier November 17, 1859. Her claim was rejected July 27, 1892, on the ground of her inability to furnish satisfactory evidence of soldiers' death.

Claimant alleges that soldier sailed on the *Martha Tucker* from New York City February 26, 1879, en route to Buenos Ayres, South America, to better his fortunes; that letters received from him by affiant indicated his arrival at his destination and departure from there to Montevideo, near which place he taught in a college; that she corresponded with him at both places until 1881, when, after stating that he intended to leave Montevideo for Rio Janeiro, correspondence on part of soldier ceased, and although letters were written to United States consuls at Buenos Ayres, Montevideo, and Rio Janeiro, and after exhausting every possible means of information, she has never heard from the soldier or others concerning his movements after his departure from Montevideo.

William J. Buchanan, minister to Buenos Ayres, wrote to the Secretary of State September 10, 1894, to effect that he is informed by Consul Baker that William P. Brinton came to Buenos Ayres in 1879 as agent for some lines of manufacture in Philadelphia. His habits were bad, and those whose business he solicited lost confidence in him, and he left and went into the country and taught school. His mail accumulated and was returned to the Dead-Letter Office. Later Mr. E. S. Bowers (now deceased) told Consul Baker that Mr. Brinton had died in one of the country towns of the Argentine Republic, but where or when Consul Baker did not inquire. This was probably in 1881.

The testimony filed shows widow used every possible means of locating her husband or finding date and circumstances of his death without avail; that she is without any estate, property, or means of support, except her labor.

In view of these facts your committee believe that the death of soldier should be presumed, and we earnestly recommend the passage of the bill.

MARTHA LINDSAY.

FEBRUARY 27, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ERDMAN, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 126.]

The Committee on Invalid Pensions have considered the bill (H. R. 126) to pension Martha Lindsay, and submit the following report:

The petitioner is the widow of William Lindsay, who served in Company F, Second Pennsylvania Reserve Corps, from February 12, 1864, to March 27, 1864, when he was accidentally killed in camp by the explosion of an old shell which he was handling.

It is duly shown by evidence on file in the Pension Bureau that the widow is 74 years of age and has no property or other source of income. She was married to the soldier January 26, 1853, and had four children at the date of his death. Her claim, filed June 20, 1864, was rejected on the ground that soldier's death was not incurred in line of duty. She can not be pensioned under the act of June 27, 1890, because he did not serve ninety days.

Two witnesses testify that she has not remarried since the soldier's death.

The ground of rejection of the claim under the old law is purely technical. There is nothing to show the circumstances of his death except the statement on records of War Department, as quoted above. It was clearly through no conscious fault of his own that he met his death. His conduct may have been imprudent, but it was not even, strictly speaking, "contributory negligence."

Your committee recommend that the bill do pass, after being amended, by striking out the words "Act of Congress approved June 27, 1890," in lines 5 and 6, and inserting in lieu thereof the words "general pension laws." The effect of this change will be to give her \$12 per month instead of \$8, as would be the rate in the present form of the bill.

A similar bill for this woman was favorably reported by this committee in the Fifty-third Congress, and the above is the language used in their report. The bill died on the Calendar of that Congress.

EMILY B. MUNCEY.

FEBRUARY 27, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BAKER, of Kansas, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany S. 705.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 705) granting a pension to Emily B. Muncey, have carefully considered the matter in evidence, and they hereby adopt the following from the Senate report in this case and make it their own:

The evidence fully shows that Leonard D. Muncey enlisted as a private in Company G of the Forty-eighth Regiment Illinois Volunteers, on the 1st day of September, 1861, and was honorably discharged on the 31st day of August, 1864, the expiration of his term of service.

John Willman testifies that "said soldier had the measles at Camp Butler, Illinois, some time in November, 1861, and that he, said soldier, was moved to Cairo, Ill., and there took a relapse and was left either at Cairo or Mound City, not being able to follow the regiment on foot."

David S. Hill testifies that "he served with Leonard D. Muncey in Company D, Forty-eighth Regiment Illinois Volunteers, and knows of his own personal knowledge that said Muncey had the measles while they were at Camp Butler, Illinois, and was sent to the hospital, which was so crowded that he was sent out in camp too soon and caught a severe cold and had a very severe cough, so that he was not able to do hard duty, and he was detailed to do light work in the quartermaster's department. There was such a rush of patients, principally with measles, that they would send them out from the hospital as soon as possible to make room for others."

Peter Cotton testifies that "he served in the same company and regiment as the soldier, and was with him when he contracted the measles at Camp Butler, in November, 1861; that he himself contracted the measles from said soldier; knows that said soldier was discharged too soon from hospital, and that he contracted cold which settled on his lungs, and that he was assigned to duty in the quartermaster's department on account of his not being fit for duty."

Ezekiel Bass testifies that "he was personally acquainted with Leonard D. Muncey, and served in the same company and regiment with him, and remembers wrestling and scuffling with him before he took the measles, and knew him to be stout and robust. We were in the hospital together at Camp Butler, Illinois, and to the best of my recollection said Muncey was in a squad of about 15 of us, all sick with measles, and were moved some time in November, 1861, from Camp Butler, Illinois, to Cairo, Ill., through a snowstorm, and most of us took relapse, and as best I remember said Muncey was with me in hospital in Cairo, Ill., and I well remember of looking out the window and seeing our regiment—the Forty-eighth Illinois Infantry—pass along the street, going on what was called the Kentucky scout. The last time I remember of seeing said Muncey was somewhere in Tennessee, and he was then very pale and thin, scarcely able to walk."

The records of the War Department show that said Muncey was treated in hospital from November 9 to 23, 1861, and returned to duty in his company and regiment December 11, 1861.

J. A. Muncey testifies that "he was personally acquainted with Leonard D. Muncey previous to his enlistment in the Army, and that he was a man of robust health and good physical condition; that he has known him since his discharge from the Army, and knows from personal knowledge that his health and physical condition were

entirely changed, and that he was suffering a severe lung trouble, attended with a cough."

John W. Ingersoll, late lieutenant Company G, and lieutenant-colonel Forty-eighth Regiment Illinois Volunteers, testifies that "he was acquainted with L. D. Muncey, and knows that the said L. D. Muncey is the identical person who enlisted as a private in Company D, Forty-eighth Regiment Illinois Volunteers, and was discharged by reason of expiration of term of service. That said Leonard D. Muncey, while in line of his duty at or near Camp Butler, in the State of Illinois, did, on or about the 9th day of November, 1861, become disabled in the following manner, viz: Was taken with measles at Camp Butler, Illinois, and for want of proper care took cold, which settled on his lungs. The regiment received marching orders, went to Cairo, Ill., where we did not have at the proper time sufficient quarters to protect the men from the inclement weather, and Muncey, having first left hospital, was exposed to the bad, stormy weather, took cold, and his lungs became affected, which left him with a hacking cough up to the time of his leaving the regiment. He further states that said Muncey frequently complained of lung trouble, and did not reenlist in consequence thereof. He further states that his knowledge of the foregoing is from being with him—served in the same company, enlisted at the same time; that he has no interest in the claim."

W. H. Murray, who was lieutenant of said Leonard D. Muncey's company and regiment, testifies that "said soldier was a man of sober and temperate habits, and when he enlisted was in good health and strength, and that said soldier was ruptured in the abdomen from overstrain or exertion in tearing up and destroying the railroad track at Jackson, Miss., on or about the 17th day of January, 1863, so that soldier had to be placed in hospital, and afterwards detailed as a clerk in the quartermaster's department on account of his disability for military duty."

Said soldier testified that "he was examined by a United States surgeon when he enlisted; that he was stripped and particularly examined by said surgeon as to rupture by his pressing his finger firmly in the region of the groin, and was pronounced by said surgeon a sound and healthy man, and accordingly was mustered in the service."

Several witnesses testify that they knew said soldier ever since the time he left the Army, and that he had a hacking cough and had lung trouble, which he said he had contracted while in the Army, and that he had never been entirely well since he left the Army. Said soldier died April 13, 1889. The credibility of the witnesses is fully established.

Emily B. Muncey, the widow of said soldier, is a very worthy woman, but in poor circumstances. She made application to the Pension Office for a pension as the widow of said soldier, but being unable to furnish all the evidence required by the Pension Bureau to show that the soldier had not before he entered the service contracted the disease of which he died, her claim was rejected.

Having carefully considered all the evidence in the case, your committee recommend the passage of the bill.

THOMAS BREWER.

FEBRUARY 27, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CROWTHER, from the Committee on Invalid Pensions, submitted the following

R E P O R T:

[To accompany H. R. 3857.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 3857) granting pension to Thomas Brewer, late private Companies I and F, Thirty-first Regiment Enrolled Missouri Militia, respectfully submit the following:

His discharge certificate shows that Thomas Brewer enlisted August 10, 1862, and was discharged December 8, 1862, but he alleges he was enlisted June 1, 1861, and discharged May 8, 1863.

He filed claim for pension under general law November 12, 1889, for varicocoele of left testicle, incurred at or near St. Joseph, Mo., October 21, 1862, caused by being thrown upon the pommel of his saddle.

This claim rejected April 15, 1890, on the ground that the organization to which claimant belonged was not shown to have been in the military service of the United States, and no title to pension under general laws.

He filed claim under act June 27, 1890, on October 23, 1890, alleging "epilepsy, varicocoele, disease of kidneys, and hernia."

The proof on file in his claim shows that his horse fell with him while on a march, throwing him on pommel of saddle and mashed his left testicle and unfitted him for further service.

The testimony of physicians and neighbors show that he has been unfit for manual labor since he came home from the Army, the physicians certifying that the injury to testicle caused hypochondria, fits, sensory illusions, and a train of diseases entirely disqualifying him for the performance of manual labor.

He was examined by the board of examining surgeons at Albany, Mo., March 25, 1891, which rated him at eight-eightieths for hernia, two-eightieths for varicocoele, two-eightieths for epilepsy, and four-eightieths for heart disease.

In view of the facts and circumstances in evidence in this case your committee earnestly favor the passage of this bill when amended to strike out in lines 4 and 5 the words "subject to the provisions and limitations of the pension laws," and add after the word "militia" in line 7 the words, "at the rate of \$12 per month."

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CYRUS THOMAS.

FEBRUARY 27, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WOOD, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 4910.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4910) granting a pension to Cyrus Thomas, submit the following report:

Cyrus Thomas enlisted August 7, 1862, and served as sergeant and second lieutenant in Eleventh Vermont Infantry and Battery B, First Vermont Heavy Artillery until June 24, 1865. He was promoted to first lieutenant for meritorious conduct, but seems not to have been mustered, being absent on account of wounds received in battle. His discharge and record is honorable.

He was twice wounded in battle. At Cedar Creek, Virginia, he received a slight scalp wound. At Petersburg he was wounded in left leg by piece of shell. For this last wound he is now receiving a pension of \$11.25 per month.

It conclusively appears that claimant, while in service and in line of his duty at Monocacy, Virginia, on July 31, 1864, received a sunstroke. This appears from the affidavits of his captain and two comrades. He is now in feeble health, partially paralyzed, subject to dizziness, and totally unfit for physical labor. His trouble in the head causes forgetfulness to such an extent that he is totally unfit for mental labor and he has been obliged, on account of such disabilities, to abandon his profession, that of a minister of the Baptist Church. He is 60 years of age, and requires a nurse or attendant from one-third to one-half of the time. He has little power over his muscles and can not dress himself alone.

The evidence examined by the committee is voluminous. Besides the statement of claimant, the evidence on file in the Pension Office, there are 40 affidavits, which have been carefully considered. The committee believe that the condition of the claimant is from disabilities of service origin. His captain, on account of lapse of time and lack of memoranda, can only state the fact of the sunstroke. Neither he nor the comrades can state the effect of this injury or how it affected him, although both state the fact, and one at the time wet the claimant's head. Claimant was soon after wounded and went to hospital, which reasonably accounts for this lack of evidence, which, if it could be obtained, would secure him an increase through the Pension Office. As it is, he is without remedy there.

Claimant is poor. His only income is \$11.25 per month pension and \$3 per week which his daughter earns. It is entirely insufficient for his support under his present condition.

The committee recommend the passage of the bill with an amendment striking out the word "seventy-five" and inserting "fifty;" also insert after the word "Thomas," in line four, the words "late second lieutenant Battery B, First Vermont Heavy Artillery, and sergeant Company B, Eleventh Vermont Infantry."



ELIZABETH E. DONOHUE.

FEBRUARY 27, 1896.—Committed to the Committee of the Whole House and ordered to be printed

Mr. SULLOWAY, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany S. 746.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 746) granting a pension to Elizabeth E. Donohoe, adopt as their own the Senate report, as follows:

Mrs. Donohoe is the widow of Col. Michael T. Donohoe, of the Tenth New Hampshire Volunteer Infantry, and brevet brigadier-general of volunteers. The following certificate from the adjutant-general of New Hampshire gives the military record of the soldier:

THE STATE OF NEW HAMPSHIRE, ADJUTANT-GENERAL'S OFFICE,
Concord, November 26, 1895.

I certify that the following is a correct abstract from the official records of this office: Michael T. Donohoe, born Lowell, Mass.; age, 22; residence, Manchester, N. H.; enlisted August 1, 1861, as private in Company C, Third Regiment New Hampshire Volunteers; appointed captain August 22, 1861; mustered into service as captain August 23, 1861; discharged July 31, 1862, to accept promotion; appointed colonel Tenth Regiment New Hampshire Volunteers August 6, 1862; mustered as colonel September 5, 1862; wounded September 29, 1864, Fort Harrison, Va.; mustered out June 21, 1865, brevet brigadier-general United States Volunteers, for gallant conduct in the field, to date from March 13, 1865.

A. D. AYLING,
Adjutant-General State of New Hampshire.

At the age of 22, and almost at the beginning of the war, Mr. Donohoe raised a full company for the Third New Hampshire Regiment, which he served with and commanded until promoted to the colonelcy of the Tenth Regiment from that State. He commanded a brigade at the close of the war. He was severely wounded at the battle of Fort Harrison, Va., in September, 1864, being confined in hospital at Hampton and Fortress Monroe for many weeks. In consequence of this wound Colonel Donohoe could have been placed on the pension roll at the close of the war, but he preferred not to accept aid from the Government while he was able to take care of himself and family. Had he accepted a pension he would have doubtless drawn from the Treasury more money than will be paid to his widow during her natural life under the provisions of this bill.

General Donohoe was a brave, loyal, true Irish-American soldier, and an upright, honored citizen. He was twice named by the Democratic party of New Hampshire as their candidate for railroad commissioner (in those days the second name on the ticket), and was twice honored in Massachusetts as the party candidate for secretary of state. During the three years 1891, 1892, and 1893 he served as aid-de-camp on the personal staff of Governor Russell, of Massachusetts. During the later years of his life he served as secretary to the department of public institutions of Boston, and a few months previous to his death he was promoted to the superintendency of the Reformatory for Boys at Rainsford Island, Boston Harbor.

General Donohoe died on the 26th day of May, 1895, of cerebral hemorrhage, leaving no property whatever. This not being a disease of service origin the widow is barred from receiving the pension of \$30 per month, the grade of a colonel, under the general law. Her only means of relief is either by special act or by securing a pension of \$8 per month under the act of June 27, 1890.

In view of the fact that General Donohoe served with distinction for almost four years, that he declined to apply for pension in consequence of a severe wound, and the destitute condition of his widow, your committee recommend favorable action on the bill after it has been amended by substituting "Donohoe" for "Donahoe" in lines 6 and 7 and also in the title of the bill.

HANNAH NEWELL BARRETT.

FEBRUARY 28, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HALTERMAN, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 3229.]

The Committee on Pensions, to whom was referred the bill (H. R. 3229) for the relief of Hannah Newell Barrett, have considered the same, and respectfully report as follows:

The beneficiary, Hannah Newell Barrett, is the daughter of Noah Harrod, who served in the years 1782, 1783, and 1784, in Captain Webb's company of Colonel Shephard's regiment, Massachusetts line, Revolutionary war. The date of his discharge, as shown by the records, was June 13, 1784.

The following affidavit shows the facts:

George S. Greenough, captain Fourth Regiment United States Artillery, being duly sworn deposes and says that he is personally acquainted with Hannah Newell Barrett, who is the oldest surviving daughter of Noah Harrod, now deceased; that he has been told that the said Noah Harrod served in the Massachusetts troops during the Revolutionary war.

He further says that the said Hannah Newell Barrett is about ninety six years old; is physically disabled, having been seriously crippled as the result of a fall, and that she has been for many years entirely dependent for support on the charity of friends. That in fact she possesses no property whatsoever and has no income from any source. That he has known the said Mrs. Hannah Newell Barrett for nearly forty years.

G. G. GREENOUGH,
Captain, Fourth Regiment United States Artillery.

Sworn and subscribed before me this 5th day of February, A. D. 1896.

[SEAL.]

J. A. WATKINS,
United States Commissioner.

There are several precedents for the allowance of a pension to the aged and destitute daughters of Revolutionary soldiers; and in view of the facts stated above, your committee recommend the passage of the bill, amended, however, by striking out the word "twenty" in line 8, and substituting the word "twelve," so as to allow a pension rated at \$12 per month.

MUSTER ROLLS OF THE THIRD AND FOURTH REGIMENTS KANSAS INFANTRY.

FEBRUARY 28, 1896.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. HULL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. Res. 99.]

The Committee on Military Affairs have considered the resolution (H. Res. 99) to furnish the State of Kansas copies of muster rolls of the Third and Fourth Regiments of Kansas Infantry, and recommend that it do pass.

These regiments were consolidated into the Tenth Kansas Infantry by the War Department independent of the State of Kansas. Kansas has no record of either the Third or Fourth Regiment. They were known as Lane's Brigade, and were enlisted independent of regular calls on the State for troops, and the only record of such enlistment is in the War Department.

The adjutant-general of Kansas writes:

I have had correspondence with the Secretary of War relating to these records, and Col. F. C. Ainsworth, Chief of Office of Record and Pension Office, informs me that it will cost the State about \$142 to have copies of these records made. We have no appropriation to pay this expense. Could you not, by resolution or otherwise, require these records to be furnished the State gratis. You will understand that this consolidation was made by the arbitrary action of the War Department, and the records should have been furnished the State at the time. The organization of Lane's Brigade was, I believe, under direct authority of the War Department, given Senator J. H. Lane to raise and command a brigade, and the returns must have been made direct to Washington, as neither muster-in rolls or anything else was ever in possession of this office. Please take this matter in charge.

The following is the indorsement on my application for duplicate of the muster-in rolls, dated June 28, 1895:

RECORD AND PENSION OFFICE,
War Department, Washington, D. C., July 6, 1895.

Respectfully returned to the adjutant-general of Kansas, State of Kansas, Topeka, Kans.

Copies of the muster rolls of the Third and Fourth Kansas Infantry, referred to within, can be furnished to the governor of the State of Kansas, upon application therefor, under provisions of War Department orders of April 4, 1895, a copy of which is herewith inclosed.

The cost of making the copies in question will probably be \$142.

By authority of the Secretary of War.

F. C. AINSWORTH,
Colonel, U. S. A., Chief of Office.

I am unable to give further information. You no doubt have some recollection of the matter yourself.

Very respectfully,

S. M. Fox, *Adjutant-General.*

REPORT OF THE COMMISSIONER OF THE LAND OFFICE
KANSAS TERRITORY.

Presented to the Senate of the State of Kansas, in the year 1860.

By the Hon. the Governor, in answer to a resolution of the Senate, passed March 1st, 1860.

ALBANY: PUBLISHED BY J. B. LEECH, 1860.

The Commission of the Land Office, Kansas Territory, was organized on the 1st day of January, 1860, and has since that time been engaged in the discharge of its duties.

The first object of the Commission was to ascertain the status of the public lands in the Territory, and to report thereon to the Governor. This object has been accomplished, and the report is herewith submitted.

The Commission has also been engaged in the sale of public lands, and in the collection of the proceeds thereof.

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SALARIES FOR UNITED STATES DISTRICT ATTORNEYS AND MARSHALS.

FEBRUARY 28, 1896.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. UPDEGRAFF, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 6654.]

The Committee on the Judiciary, to whom was referred H. R. 3117, H. R. 339, H. R. 5479, H. R. 4961, H. R. 4322, H. R. 4565, H. R. 3818, H. R. 4049, H. R. 4158, H. R. 1457, H. R. 4561, H. R. 5966, H. R. 6446, and Document No. 167, have had the same under very careful consideration, and, as a substitute for all other bills above designated, recommend the passage of H. R. 6654.

The subject covered has been considered as one of the gravest importance. The steadily increasing expenses of the Federal courts has attracted the attention of all Departments of the Government, and the demand for relief has become widespread. These expenses, from \$3,864,898 in 1888, had increased in 1894 to \$6,195,100, and the returns were not all in when this enormous amount was reported. It is therefore safe to say that the expenses of the Federal courts in seven years have fully doubled. This enormous increase is believed to have been largely caused by what is known as the fee system, and it is believed that no substantial reform can be accomplished except by abolishing this system. The desire on the part of some district attorneys and their assistants and some marshals and their deputies to increase their fee and emolument returns to the maximum has stimulated many frivolous, vexatious, and unsuccessful prosecutions. The report for 1895 of the Attorney-General states that during the year 1895 40 per cent of the prosecutions were unsuccessful, and that this is even less than usual, and does not include persons arrested and discharged on preliminary hearing, or those wherein the charges are ignored by grand juries.

The bill recommended affects only district attorneys and their assistants, marshals and their deputies, and United States commissioners. It does not affect clerks. As the power to initiate proceedings rests with the attorneys and marshals, it has been thought more important to apply to these offices the salary system. It has been impossible with the time at command to make an accurate estimate of the savings affected by the bill. Many thousand dollars will be saved to the people on the salaries of district attorneys and marshals alone. It is believed, however, that the greatest public good to be hoped for from the bill is the reduction in the fees of attorneys and marshals and their deputies, in the compensation of commissioners, in clerks' costs, and in the fees and mileage of witnesses, which it is thought will certainly follow the removal of the incentive of personal gain in those officers possessing the power to initiate frivolous and groundless prosecutions.

The committee has considered the subject industriously and patiently

for weeks, has sought information from every source, and is greatly indebted to the Department of Justice for patient and intelligent assistance. It has been most carefully and laboriously considered by the subcommittee and by the whole committee, and with the exception of Mr. Bailey, of Texas, and perhaps one other, who think in some cases the amount of salary too large, the committee is unanimous in its support of the bill. It is believed by those best informed on the subject that the bill will effect a saving of \$500,000 in the first year of its operation, and its authors will be disappointed if it does not produce a saving of several times that sum per annum. In framing the bill the committee has at no time during its prolonged consideration lost sight of the importance of avoiding any weakening of the arm of the Government in the enforcement of its laws.

Heretofore there has been no term fixed for the office of the circuit court commissioners, and it has even been doubted if there is any power to remove one of these commissioners. The committee has thought it best, and so provided in the bill, that the office shall be abolished on the 30th day of June, 1896, and that thereupon the district judges and Attorney-General shall appoint such United States commissioners as the public service may require, who shall hold their office for the term of four years. Section 17 provides a fee bill for such commissioners, which, although reduced considerably below the fee bill of circuit court commissioners, the committee, after the most careful examination, believe will fairly compensate the new officers for their services. The present fee bill is so indefinite and elastic that great abuses have arisen therefrom.

None of the provisions of the bill apply to the Indian Territory or the Territory of Alaska, for the reason that in these Territories compensation of officers has been settled by recent legislation, nor does the bill affect the office of the district attorney for the southern district of New York, as that office is now being conducted under statutes recently and specially enacted.

The substitute bill recommended has been constructed largely upon the lines of H. R. 4158, introduced by Mr. Tracey, of Missouri, and H. R. 1457, by Mr. Lacey, of Iowa; and in the labor and investigations involved in the preparation of the bill the subcommittee has received valuable aid and assistance from Mr. Tracey and from Mr. Foster V. Brown, of Tennessee, whose practical experience as marshal and attorney, respectively, has made their advice especially valuable.

A single practice inaugurated within less than a year emphasizes the necessity for a change of system. Under existing law district attorneys and their assistants are entitled to charge travel fees of 10 cents a mile each way, and until May, 1895, this was entered into and formed a part of the fee and emolument accounts. In May, 1895, the Supreme Court held that these travel fees need not be charged to this account, and therefore when the earnings, without these travel fees, reached the maximum compensation of \$6,000, the district attorney could retain them in addition to the maximum. In one district where the fees and emoluments often reach the maximum, the district attorney has received as mileage in three months the sum of \$1,276.20, and in nine months \$2,543.40. In several districts these mileages have, in a single quarter, reached near to and more than \$1,000, and the possibilities of the situation are not half developed. The same rule applies to some extent to marshals. So that it is now quite possible that district attorneys may nearly or quite double their former compensation and the marshals greatly augment theirs.

JOHN W. FAIRFAX.

FEBRUARY 28, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. LESTER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1328.]

The Committee on War Claims, to whom was referred the bill (H. R. 1328) for the relief of John W. Fairfax, submit the following report:

Your committee find from an examination of the papers in the case the following facts:

STATEMENT OF CASE.

The claim or matter in the above-entitled case was transmitted to the Court of Claims by the Committee on War Claims of the House of Representatives on the 27th day of May, 1886.

C. H. Lee, esq., appeared for claimant, and the Attorney-General, by James H. Nixon, esq., his assistant, and under his direction, appeared for the defense and protection of the interests of the United States.

The case having been brought to a hearing on the 25th day of February, 1891, the court, upon the evidence and after considering the briefs and arguments of counsel on both sides, finds the facts as hereinafter stated. The said claimant, after the transmission of his claim as aforesaid, filed the following petition:

(1) That petitioner is a native-born citizen of the United States, and resides in the State of Virginia.

(2) That at the commencement of the late war he owned the entire interest in a farm called "Freestone," in Prince William County, Va., which interest was, in the year 1864, libeled in the United States district court for the eastern district of Virginia, under an act of Congress approved July 17, 1862, entitled "An act to suppress insurrection, etc., and to confiscate the property of rebels," etc. (vol. 12, p. 589, U. S. Stats. L.), and being so libeled, was condemned to be confiscated and sold for the use of the United States under the provisions of said act.

(3) That at said sale, one William Duncan, United States deputy marshal, either for himself or one John Underwood, United States marshal in said district, on the 14th day of July, 1864, the day on which said farm was offered at public auction, became the purchaser thereof for the sum of \$2,100, said sale having been conducted and made by the said Duncan himself, as deputy marshal aforesaid, which said sum of \$2,100, less the expense of sale, as the return of said Duncan made to the court in said confiscation case shows, was paid to the clerk of said court, who turned the same into the Treasury of the United States at Washington.

(4) That your petitioner finding his property had thus been summarily disposed of in his absence, and without notice to him, sought to regain its possession; but this proving impossible, he agreed to repurchase the same of said Duncan, and paid him therefor, by draft on Samuel Harris & Sons, Baltimore, Md., the sum of \$3,000, and thereupon received from said Duncan a deed (in which his wife united), conveying the interest purchased in said farm by said Duncan to your petitioner, which deed was afterwards destroyed by the accidental burning of your petitioner's dwelling house.

(5) That your petitioner was advised, and now avers, that he had no remedy whereby he could obtain relief in the premises, and obtain repayment except by application to Congress for the exercise of its exclusive and plenary powers in such cases, he having for some time been under such legal and political disabilities as

excluded him from bringing any suit for the recovery of his real or supposed rights. Accordingly your petitioner made his appeal to Congress as soon as he could obtain the proper record of facts in his case, as will appear by his memorial to that body, wherein he set forth substantially as follows:

"That said memorialist had been a colonel in the Confederate army, but had since taken the oath of allegiance to the United States. That at the outbreak of said war he owned a joint interest in a tract of land in Prince William County, Va., called 'Freestone,' containing about 600 acres. That in May, 1864, a libel against his interest in said land was filed in the United States district court for the eastern district of Virginia, under which, in alleged conformity to the confiscation laws of the United States, his said interest was declared to be confiscated and ordered to be sold for the use of the United States. That such sale was accordingly made in July, 1864, when one William Duncan, deputy marshal of the United States (who made the sale) became the purchaser thereof for \$2,100 and paid said purchase money, less expense of sale, to the clerk of the court (as required by the said court), who turned the same into the United States Treasury at Washington. And your petitioner filed with, and as part of his said memorial, a certified copy of the record in said libel suit. And finally, averring that the recent so-called confiscation law of 1862, had never been fully enforced, but that all moneys paid for property sold thereunder had been refunded by the Government, he prayed relief in the premises from Congress, as in his said memorial set forth."

(6) That said memorial and accompanying papers were during the Forty-ninth session of Congress (in May, 1886), referred by the Committee on War Claims of the House of Representatives to this honorable court for examination and report, as required by the first section of an act entitled "An act to afford assistance and relief to Congress, etc.," approved March 3, 1883, commonly known as the Bowman Act.

(7) That the proceedings in said libel suit were, as your petitioner is advised and now avers, irregular, illegal, and void, for the following reasons:

(a) There were no proper notices given of the time, place, and terms of sale of said property as required by the order of court.

(b) No day was given any party in interest to come in and object to the alleged sale.

(c) There was no report to the court of any sale of said property.

(d) There was no decree or order of court confirming the alleged sale.

(e) Neither the marshal, Underwood, nor his deputy, Duncan, could legally have become the purchaser of said property. (See court record filed herewith.)

(8) That a sale made and the proceeds thereof received under such circumstances by the United States Government, or its authorized agents, constitute said Government trustee of the owner of such property, and such proceeds are only to be regarded as money held in trust for the use of such owner.

(9) Wherefore your petitioner, referring to his said memorial to Congress, and all records and accompanying papers sent for examination to this honorable court, as aforesaid, prays that the same may be received as part of this petition, and as proofs of the facts therein alleged. He also prays that this honorable court, responding to the call of said Congressional committee, as provided in the first section of the aforesaid act of March 3, 1883, may make such findings, recommendations, and reports herein as justice and equity require; that so the relief prayed by him may be afforded.

Respectfully submitted.

JOHN W. FAIRFAX, *Petitioner.*

FINDINGS OF FACT.

I.

In the year 1864 proceedings in the district court of the United States for the district of Virginia were commenced against certain real estate, under the act entitled "An act to suppress insurrection, to punish treason and rebellion, and to confiscate the property of rebels, and for other purposes." The said proceedings had relation to the interests of said claimant.

The steps taken in said proceedings are shown by the different papers contained in Exhibit A, marked Nos. 1, 2, 3, 4, 5, 6, 7, and 8.

No. 1.

OFFICE U. S. DISTRICT ATTORNEY FOR THE DISTRICT OF VIRGINIA,
Alexandria, Va., March 3rd, 1864.

To the marshal of the United States for the district of Virginia:

In compliance with general instructions, issued by the Attorney-General under the act of July 17th, 1862, entitled "An act to suppress insurrection, to punish treason

and rebellion, to seize and confiscate the property of rebels, and for other purposes," I have to direct that you seize all the right, title, interest, and estate of John W. Fairfax in and to all that piece or parcel of land situate, lying, and being at Freestone Point, in the county of Prince William, in the eastern district of Virginia, and located on the Potomac River between the mouth of the Occoquan River and Dumfries, and known as the Fishery, and real estate of John W. Fairfax, containing six hundred acres, more or less, together with all the improvements, buildings, rights, privileges, appurtenances, and other hereditaments to the same belonging or in any wise appertaining, and all right, title, interest, and estate of John W. Fairfax therein, as proceedings are to be instituted to secure the consideration of the same to the use of the United States, under the above entitled act.

You will report the seizure to me, when the same shall have been made.

L. H. CHANDLER,
U. S. District Attorney.

DAVIS and BRADSHAW.

No. 2.

District court of the United States for the eastern district of Virginia.

[The United States v. All the right, title, interest, and estate of John W. Fairfax in and to all that piece or parcel of land situate, lying, and being at Freestone Point, in the county of Prince William, in the eastern district of Virginia, and located on the Potomac River between the mouth of the Occoquan River and Dumfries, and known as the Fishery, and real estate of John W. Fairfax, containing six hundred acres of land more or less. Confiscation.]

On reading and filing the libel in this case, the court orders that process of monition issue as prayed, and appoints the third Friday of June, 1864, and the court room in the city of Alexandria as the time and place of trial of this cause; and also orders that notice of said time and place of trial, and of the substance of the said libel, be given by publication thereof in the Virginia State Journal, a newspaper published in the city of Alexandria, twice a week for two weeks prior to said time of trial; and also by posting up the same at the court-house door; and that proclamation of dependency of this suit be made by the marshal at the court-house door two times weekly until the day of trial.

JOHN C. UNDERWOOD, *Dist. Judge.*

(Endorsed:) 1. No. 194. The United States v. All the right, title, John W. Fairfax. Order for process, etc. Returnable 3rd Friday June, 1864. Filed and entered May 31, 1864. W. H. Barry, clerk.

No. 3.

District court of the United States for the eastern district of Virginia.

To John W. Fairfax and to all whom it may concern, greeting:

Notice is hereby given that on the 31st day of May, 1864, all the right, title, interest, and estate of John W. Fairfax in and to all that piece or parcel of land situate, lying, and being at Freestone Point, in the county of Prince William, in the eastern district of Virginia, and located on the Potomac River between the mouth of the Occoquan River and Dumfries, and known as the Fishery, and real estate of John W. Fairfax, containing six hundred acres of land, more or less, was seized by the marshal of the United States for said district as forfeited to the use of the United States, and the same is libeled and prosecuted in this court in the name of the United States, for condemnation for the causes in the said libel set forth, and that the said cause will stand for trial at the court room in the city of Alexandria on the 3rd Friday of June next, when and where all persons are warned to appear to show cause why condemnation should not be decreed, and to intervene for their interests.

Dated May 31st, 1864.

WM. H. BARRY, *Clerk.*

(Endorsed:) 2. No. 194. United States v. All the right, title, John W. Fairfax. Notice of seizure and libel and time and place of trial, 3rd Friday June, 1864. Filed May 31st, 1864. Wm. H. Barry, clerk.

To the judge of the district court of the United States for the eastern district of Virginia:

This is the libel of information of L. H. Chandler, United States attorney for the eastern district of Virginia, in behalf of the Government of the United States against all the right, title, interest, and estate of John W. Fairfax in and to all that piece or parcel of land situate, lying, and being at Freestone Point, in the county of Prince William, in the eastern district of Virginia, and located on the Potomac River between the mouth of the Occoquan River and Dumfries, and known as the Fishery, and real estate of John W. Fairfax, containing six hundred acres of land, more or less, together with all the improvements, buildings, rights, privileges, appurtenances, and other hereditaments to the same belonging or in anywise appertaining, and against all persons lawfully intervening for their interest therein.

And thereupon the said L. H. Chandler, United States attorney as aforesaid, doth allege and articulately propound as follows:

I. That certain States forming a part of the territory and constituting a part of the Government of the United States, and specifically enumerated by the President of the United States, in his proclamation duly issued, and bearing date the first day of July, A. D. eighteen hundred and sixty-two, are engaged in armed rebellion against the lawful authority of the United States.

II. That by the act of the Congress of the United States, approved the seventeenth day of July, in the year of our Lord one thousand eight hundred and sixty-two, entitled "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," provision was made for the seizure and confiscation of the property of persons engaged in armed rebellion against the lawful authority of the United States, as therein set forth.

III. That the President of the United States did, on the twenty-fifth day of July, in the year of our Lord eighteen hundred and sixty-two, issue his proclamation warning all persons within the contemplation of the sixth section of the said act of Congress of July 17, A. D. 1862, to cease from participating in, aiding, countenancing, and abetting the existing rebellion against the Government of the United States, as provided for by said act.

IV. That John W. Fairfax, on the said seventeenth day of July, in the year of our Lord one thousand eight hundred and sixty-two was, and previously thereto had been, the owner of real estate in the county of Prince William, eastern district of Virginia, described as follows: All that piece or parcel of land situate, lying, and being at Freestone Point, in the county of Prince William, in the eastern district of Virginia, and located on the Potomac River between the mouth of the Occoquan River and Dumfries, and known as the Fishery, and real estate of John W. Fairfax, containing six hundred acres of land, more or less, together with all the improvements, buildings, rights, privileges, appurtenances, and other hereditaments to the same belonging or in anywise appertaining.

V. That the said John W. Fairfax subsequently to said seventeenth day of July, in the year of our Lord one thousand eight hundred and sixty-two, held and exercised an office and agency of honor, trust, and profit under the government of the so-called Confederate States, and under one of the said several States of said Confederacy, and under the laws thereof, and that the said John W. Fairfax accepted the appointment, and was elected to said office and agency after the date of the pretended ordinance of said State, and did take an oath of allegiance to, and to support the constitution of, the so-called Confederate States.

VI. That the said John W. Fairfax, owning property in the said county of Prince William, as aforesaid, has, since the said seventeenth day of July, in the year of our Lord one thousand eight hundred and sixty-two, assisted and given aid and comfort to the rebellion and to those engaged in the rebellion against the lawful authority and against the Government of the United States in this, that the said John W. Fairfax did, on the eighteenth day of July, in the year of our Lord one thousand eight hundred and sixty-two, and at various other times, between that date and the date of the filing of this libel of information, give aid and comfort to said rebellion by acting as a soldier, and as an officer, and as a noncommissioned officer, in the army and navy of the so-called Confederate States, and by contributing money and property to the aid and encouragement of those engaged in the rebellion against the lawful authority of the United States, and to the government of the so-called Confederate States.

VII. That the said John W. Fairfax, on the eighteenth day of July, in the year of our Lord one thousand eight hundred and sixty-two, was engaged in armed rebellion against the Government of the United States, and in aiding and abetting such rebellion, and notwithstanding that the President of the United States, on the 25th day of July, eighteen hundred and sixty-two, did issue his proclamation, as aforesaid, warning all persons within the contemplation of the sixth section of the said act of Congress of July the seventeenth, eighteen hundred and sixty-two, to cease

participating in, aiding, countenancing, and abetting such rebellion, the said John W. Fairfax did not, within sixty days after the said proclamation was duly given and made, cease to aid, countenance, and abet such rebellion, and did not return to his allegiance to the United States.

VIII. That the said property herein described has been seized by the United States marshal for the district of Virginia in compliance with instructions issued by the Attorney-General to district attorneys of the United States, and by virtue of the fifth section of the act approved on the seventeenth day of July, in the year of our Lord one thousand eight hundred and sixty-two, entitled "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes."

IX. That by reason of the premises, the property herein described became and was forfeited to the United States, and ought to be condemned to their use.

Wherefore, prayer is hereby made to your honor that process of monition may issue against the owner and owners of the property herein described, and against all persons interested or claiming an interest therein, warning them at some early day, to be therein named, to appear and answer this libel of information; and the owner of said property being absent and nonresident, prayer is further made for order of publication, in the usual form, and for such further and other relief as to law and justice may appertain and as this court is competent to give in the premises.

May 31st, 1864.

L. H. CHANDLER, *U. S. Attorney.*

(Endorsed:) 4. 194. U. S. district court for eastern Virginia, at Alexandria. United States *v.* All the right title, John W. Fairfax. Libel of information. Filed May 31st. 1864. W. H. Barry, clerk.

At a special term of the district court of the United States of America for the eastern district of Virginia, held at the court room in the custom-house building, in the city of Alexandria, on Thursday, the 23rd day of June, in the year of our Lord one thousand eight hundred and sixty-four.

Present: The Honorable John C. Underwood, district judge.

[United States *v.* All the right, title, interest, and estate of John W. Fairfax on and to all that piece or parcel of land situate, lying, and being at Freestone Point, in the county of Prince William, in the eastern district of Virginia, and located on the Potomac River, between the mouth of the Occoquan River and Dumfries, and known as the Fishery, and real estate of John W. Fairfax, containing six hundred acres of land, more or less. No. 194.]

The papers in this cause having been heretofore returned, the usual proclamation having been made, the default of all persons being duly entered, and notwithstanding said default, witnesses having been called and examined by L. H. Chandler, attorney for the United States, and due deliberation being had on the pleadings and proofs, it is thereupon, on motion of the said L. H. Chandler, ordered, adjudged, sentenced, and decreed by the court that the real property mentioned and described in the libel in this cause be, and the same accordingly is, confiscated and condemned as forfeited to the United States.

And upon like motion it is further ordered, adjudged, and decreed that the clerk of this court issue a decree of *venditioni exponas* to the marshal of the district, returnable according to same; and that the said marshal, after having given at least twenty days' notice of the time, place, and terms of sale by publication thereof in one or more newspapers published in the city of Alexandria, and in one or more newspapers published in the city of Washington, D. C., sell the said property at public sale, for cash, to the highest bidder, and execute a deed for the real estate to the purchaser and bring the proceeds of said sale into this court for its action thereon.

JOHN C. UNDERWOOD, *Dist. Judge.*

(Endorsed:) 5. 194. United States *v.* All the right, title, John W. Fairfax. Decree. Filed and entd., June 23rd, 1864. W. H. Barry, clerk.

No. 6.

The President of the United States to the marshal for the eastern district of Virginia, greeting:

You are hereby commanded to give public notice, at least fourteen days before the day of trial hereinafter mentioned, by advertisement in the Virginia State Journal, a newspaper published in the city of Alexandria, and by posting up a notification

at the court-house door of the district court of the eastern district of Virginia, in said city, and by proclamation at said court-house door twice a week till the day of trial aforesaid, that L. H. Chandler, attorney of the United States for said district, has caused all the right, title, interest, and estate of John W. Fairfax in and to all that piece or parcel of land situate, lying, and being at Freestone Point, in the county of Prince William, in the eastern district of Virginia, and located on the Potomac River, between the mouth of the Occoquan River and Dumfries, and known as the Fishery, and real estate of John W. Fairfax, containing six hundred acres of land, more or less, to be seized by you as forfeited to the United States.

That he did, on the 31st day of May, 1864, file in the clerk's office of said district court a libel of information on behalf of the United States against the said real estate, and against all persons lawfully intervening for their interest therein, and for the causes in said libel set forth, praying for condemnation of the same to the use of the United States, and that said court has appointed the 3rd Friday of June, 1864, and the court room in the said city, as the time and place for the trial of said cause, when and where all persons interested in said real estate, or claiming an interest therein, may appear and make their allegations in that behalf.

Herein fail not, and make return of this warrant into said clerk's office without delay, so endorsed as to show the time and manner of its execution by you.

Witness the Honorable John C. Underwood, United States district judge for the eastern district of Virginia, this 31 day of May, A. D. 1864.

W. H. BARRY, *Clerk.*

(Endorsed:) 6. No. 194. United States v. All the right, title, &c., John W. Fairfax. Monition. Returnable 3rd Friday June, '64. Issued May 31, 1864. Filed June 17, 1864. W. H. Barry, clerk.

I hereby certify that the notice has been posted, published, and proclaimed as within commanded.

JOHN UNDERWOOD, *U. S. M.,*
P. W. A. DUNCAN, *Deputy.*

ALEXANDRIA, VA., *June 17, 1864.*

No. 7.

UNITED STATES OF AMERICA, *Eastern District of Virginia, ss:*

The United States of America to the marshal
of the eastern district of Virginia greeting:

Whereas a libel was filed in the district court of the United States for the eastern district of Virginia, at Alexandria, on the 31st day of May, in the year of our Lord one thousand eight hundred and sixty-four, by L. H. Chandler, against all the right, title, interest and estate of John W. Fairfax in and to all that piece or parcel of land situate, lying, and being in Freestone Point, in the county of Prince William, in the eastern district of Virginia, and located on the Potomac River between the mouth of Occoquan River and Dumfries, and known as the Fishery, and real estate of John W. Fairfax, containing six hundred acres of land, more or less, praying that the same may be condemned and sold for the causes on the said libel alleged; and

Whereas the said real estate has been attached by the process issued out of the said district court in pursuance of the said libel, and is now in custody by virtue thereof, and such proceedings have been thereupon had that by the decree of the said court on this cause made and pronounced on the 23rd day of June, in the year of our Lord one thousand eight hundred and sixty-four, the said real estate was condemned and ordered to be sold by you, the said marshal, after giving twenty days' notice of such sale, according to law, in one of the newspapers published in the city of Alexandria and one of the newspapers published in the city of Washington, D. C.

Therefore you, the said marshal, are hereby commanded to cause the said real estate so condemned and ordered to be sold, to be sold in the manner and form upon the notice, and at the time, place, and upon the terms by law required; and that you have the money accruing from said sale in said court at Alexandria on the 6th day of August, eighteen hundred and sixty-four, and that you then pay the same to the clerk of the court, and have you also then and there this writ.

Witness, the Hon. John C. Underwood, judge of the said court, at Alexandria, in the eastern district of Virginia, this 24th day of June, in the year of our Lord one thousand eight hundred and sixty-four, and of our Independence the eightieth.

W. H. BARRY, *Clerk.*

Sold July 19th, 1864, for.....	\$2, 100. 00
Expenses	\$27. 50
Fees and commissions.....	71. 00
	98. 50
	2, 001. 50

Paid gross amount to clerk and received fees and expenses as per statement above.

JOHN UNDERWOOD, *U. S. M.*,
P. W. A. DUNCAN, *Deputy*.

No. 8.

UNITED STATES OF AMERICA, *Eastern District of Virginia, ss:*

I, William B. Wall, clerk of the district court of the United States for the eastern district of Virginia, at Richmond, do hereby certify that the foregoing is a true transcript from the record and proceedings of the cause therein named.

In testimony whereof I have hereunto set my hand and affixed the seal of said court at Richmond, in said district, this 8th day of Dec'r, 1884.

[SEAL.]

WM. B. WALL, *Clerk*.

UNITED STATES OF AMERICA, *Eastern District of Virginia, ss:*

I, Robert W. Hughes, judge of the district court of the United States for the eastern district of Virginia, do hereby certify that William B. Wall, who hath given the foregoing certificate, is clerk of said court, and that his said attestation is in due form.

Given under my hand this 8th day of December, 1884.

ROBT. W. HUGHES, *District Judge*.

II.

No testimony has been taken since the matter was transmitted to this court as aforesaid.

It does not appear, except from said exhibit, what the interest of said claimant was in said premises.

The said claimant was a colonel in the Confederate army, and as such participated in the late war.

In the year 1865 he was specially pardoned by the President.

BY THE COURT.

Filed March 2, 1891.

A true copy.

Test, this 21st day of March, A. D. 1892.

[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Your committee report back the bill and recommend its passage with the following amendment:

In line 3 strike out "Treasurer of the United States," and insert in lieu thereof "Secretary of the Treasury."

HEIRS OF MRS. MARY ANN RANDOLPH CUSTIS LEE.

FEBRUARY 28, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. LESTER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1329.]

The Committee on War Claims, to whom was referred the bill (H. R. 1329) for the relief of the heirs of the late Mrs. Mary Ann Randolph Custis Lee, submit the following report:

This claim was referred to the Court of Claims by the Committee on War Claims on February 27, 1884, under the terms of the Bowman Act. The said court has reported its findings to Congress, from which it appears that there is due the claimants the sum of \$217,236.

The findings of the Court of Claims are hereto attached and made a part of this report.

Your committee recommend the passage of the bill with the following amendment:

In lines 7 and 8 strike out "two hundred and seventeen thousand two hundred and thirty-six," and insert in lieu thereof "one hundred and eight thousand six hundred and eighteen."

[House Mis. Doc. No. 17, Fifty-second Congress, second session.]

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, December 5, 1892.

SIR: Pursuant to the order of the court I transmit herewith a certified copy of the findings filed by the court in the aforesaid cause, which case was referred to this court by the Committee on War Claims, House of Representatives, under the act of March 3, 1883.

I am, very respectfully, yours, etc.,

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Hon. CHARLES F. CRISP,
Speaker of the House of Representatives.

[Court of Claims. Congressional, No. 20. Fitzhugh's executors v. The United States.]

This case, being a claim for supplies or stores alleged to have been taken by or furnished to the military forces of the United States for their use during the late war for the suppression of the rebellion, the court, on a preliminary inquiry, finds that Anna M. Fitzhugh, since deceased, the person alleged to have furnished such supplies or stores, or from whom the same are alleged to have been taken, was loyal to the Government of the United States throughout said war.

BY THE COURT.

Filed May 20, 1889.

[Court of Claims. No. 20. Charles G. Kerr, Fitzhugh Lee, and George W. C. Lee, executors of Anna Maria Fitzhugh, deceased, v. The United States.]

STATEMENT OF CASE.

The claim in the above-entitled case for supplies or stores alleged to have been taken by or furnished to the military forces of the United States for their use during the late war for the suppression of the rebellion, was transmitted to the court by the Committee on War Claims of the House of Representatives on the 27th day of February, 1884.

John Goode, esq., appeared for claimant, and the Attorney-General, by Henry M. Foote, his assistant, and under his direction, appeared for the defense and protection of the interests of the United States.

On a preliminary inquiry the court, on the 20th day of May, 1889, found that the person alleged to have furnished the supplies or stores, or from whom they were alleged to have been taken, was loyal to the Government of the United States throughout said war.

The case was brought to a hearing on its merits on the 5th day of May, 1892. The claimants in their petition made the following allegations:

That on the 16th day of November, 1870, the said Anna Maria Fitzhugh filed with the Quartermaster-General her petition for payment for timber and wood taken from her lands in Fairfax County, Va., and that on the 20th day of May, 1872, she filed her petition and claim for payment of said timber and wood with the Board of Commissioners of Claims. That the evidence taken in this case, and now on file in this court, shows that there were 200,000 cords of wood cut upon and taken from the Ravensworth lands by orders of quartermasters of the Federal Government for the use of the Army.

The court, upon the evidence and after considering the briefs and arguments of counsel on both sides, makes the following

FINDINGS OF FACT:

I.

The claimants' testatrix, Mrs. Anna Maria Fitzhugh, was in 1862, and until the time of her death in 1872, the tenant for life of a large estate in Fairfax County, Va., near the city of Alexandria, lying upon both sides of the Orange and Alexandria Railroad, known as "Ravensworth," containing more than 8,000 acres. She became tenant for life by virtue of a devise from her husband, William H. Fitzhugh, in these words:

"To my beloved wife, Anna Maria Fitzhugh, I give and bequeath, for her sole and exclusive use during her natural life, all that part of my Ravensworth estate, not herein otherwise disposed of."

The reversion of the estate was at the same time devised to the late Mrs. Mary Ann Randolph Custis Lee in the following words:

"To my dear sister, Mary Lee Custis, and my dear niece, Mary Ann Randolph Custis, I leave each a legacy of \$1,000, and to the latter and her heirs forever, I moreover leave the reversion of that part of my Ravensworth estate and its appendages bequeathed to her aunt during her life."

The life estate determined, and the remainder became vested in Mrs. Lee in the year 1872.

II.

During the years 1862, 1863, 1864, and 1865 there was cut and taken away from the Ravensworth estate by Col. Elias N. Greene, chief quartermaster of the Department of Washington, and Col. M. J. Ludington, subsequently chief quartermaster of the Department of Washington, 108,618 cords of wood for the use of the Army and hospitals in the vicinity of Washington.

In addition to the foregoing, a large quantity of wood was likewise cut during the same years by other quartermasters of the Army, but the quantity rests on the conjectures of the witnesses and has not been established by competent evidence.

III.

While the cutting was going on under Col. Greene it was stopped by an order of the Secretary of War, upon the ground that Mrs. Fitzhugh was an extremely loyal person; but upon the assurance of Col. Greene that it was a military necessity to cut wood from that place by reason of its proximity to the railroad and the safety of the persons engaged from the attacks of "Mosby's men," the Secretary authorized him to proceed. Col. Greene then promised Mrs. Fitzhugh to pay her, if the fact of her loyalty was satisfactorily established to the Government, \$3 per cord for the wood taken. The quantity of wood to which this assurance would apply was 65,000 cords.

IV.

The court finds that, irrespective of the assurance of Col. Greene, the fair and reasonable value of the wood at the time and place of taking was \$2 per cord, amounting to, for the whole quantity shown to have been taken as set forth in Finding II, 108,618 cords, \$217,236.

The court also finds that the value of the life estate, that is to say, of Mrs. Fitzhugh's property or interest as tenant for life in the wood so taken, has not been shown or established.

There has been no appearance by or on behalf of the owners of the reversionary estate in these proceedings in this court.

BY THE COURT.

Filed May 16, 1892.

A true copy.

Test this 5th day of December, 1892.

[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

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The first of these is the fact that the city of Boston was founded in 1630 by a group of Puritan settlers who had fled from England in search of religious freedom.

The second is the fact that the city of Boston was the site of the Boston Tea Party in 1773, a protest against British taxation that led to the American Revolution.

The third is the fact that the city of Boston was the site of the Boston Massacre in 1770, a confrontation between British soldiers and American colonists that resulted in the deaths of five people.

The fourth is the fact that the city of Boston was the site of the Boston Convention in 1780, a meeting of the Continental Congress that resulted in the adoption of the Declaration of Independence.

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The eleventh is the fact that the city of Boston was the site of the Boston Convention in 1780, a meeting of the Continental Congress that resulted in the adoption of the Declaration of Independence.

The twelfth is the fact that the city of Boston was the site of the Boston Convention in 1780, a meeting of the Continental Congress that resulted in the adoption of the Declaration of Independence.

The thirteenth is the fact that the city of Boston was the site of the Boston Convention in 1780, a meeting of the Continental Congress that resulted in the adoption of the Declaration of Independence.

The fourteenth is the fact that the city of Boston was the site of the Boston Convention in 1780, a meeting of the Continental Congress that resulted in the adoption of the Declaration of Independence.

The fifteenth is the fact that the city of Boston was the site of the Boston Convention in 1780, a meeting of the Continental Congress that resulted in the adoption of the Declaration of Independence.

The sixteenth is the fact that the city of Boston was the site of the Boston Convention in 1780, a meeting of the Continental Congress that resulted in the adoption of the Declaration of Independence.

The seventeenth is the fact that the city of Boston was the site of the Boston Convention in 1780, a meeting of the Continental Congress that resulted in the adoption of the Declaration of Independence.

The eighteenth is the fact that the city of Boston was the site of the Boston Convention in 1780, a meeting of the Continental Congress that resulted in the adoption of the Declaration of Independence.

JACOB R. SMITH.

FEBRUARY 28, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MAHON, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 3781.]

The Committee on War Claims, to whom was referred the bill (H. R. 3781) for the relief of Jacob R. Smith, submit the following report:

This is a claim for stores and supplies furnished the Army of the United States during the late war by Jacob R. Smith, late of Franklin County, Pa., now a resident of Jersey City, N. J. Claim stated at \$1,274.

This claim has never been brought to the notice of the Government in any way, and the claimant offers no excuse of any kind for so long sleeping upon his rights, and it seems to your committee that an investigation by the Court of Claims is necessary before intelligent action can be had upon the case, and your committee report herewith a resolution referring the claim to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the "Tucker Act," and recommend its passage.



JACOB A. SMITH.

REPORT OF THE HOUSE OF REPRESENTATIVES
ON THE
BILLS
PASSED AT THE SECOND SESSION, 1877.

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REPORT

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REPORT OF THE HOUSE OF REPRESENTATIVES
ON THE
BILLS
PASSED AT THE SECOND SESSION, 1877.

W. B. HORNER.

FEBRUARY 28, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MAHON, from the Committee on War Claims, submitted the following

R E P O R T:

[To accompany H. R. 6285.]

The Committee on War Claims, to whom was referred the bill (H. R. 6285) for the relief of W. B. Horner, submit the following report:

This is a claim for a stock of drugs and the fixtures of a drug store belonging to W. B. Horner, of Lawrence County, Pa., alleged to have been taken and used by the United States military authorities during the late war for the suppression of the rebellion. Claim stated at \$8,683.86.

The facts in relation thereto are fully stated in the affidavit of Mr. Horner, hereto annexed and made a part of this report, which is as follows:

Affidavit of W. B. Horner.

STATE OF PENNSYLVANIA, *Lawrence County, ss.:*

William B. Horner, being duly sworn according to law, deposeth and saith that he removed his drug stock and fixtures from Cincinnati, Ohio, to Memphis, Tennessee, October, 1860, having leased the corner room in the Overton Hotel building, corner of Main and Poplar streets, in that city, for a term of years at a rental of one thousand eight hundred dollars per year, with permission to occupy the same free from rent until the building should be formally opened as a hotel.

Spending three months refitting the original fixtures in the new room in a style becoming a first-class drug store in a popular hotel in a growing city at an expense of three hundred dollars. In July, 1861, the Confederate authorities issued an order notifying all northern and disaffected citizens doing business in the State to leave at the expiration of forty days. In September of same year, notice of confiscation was served on me by Confederate authority as vested in one Jackson, as receiver for that part of the State of Tennessee. Said notice is filed at the War Department, Washington, D. C., as part proof of my loyalty, and explained more fully below.

The stock and fixtures when removed valued at eight thousand six hundred and eighty-three dollars and eighty-six cents, as per invoice appended (\$8,683.86.)

May, 1862, Gen. U. S. Grant took possession of the building as a hospital, using my room as dispensing room for the same, agreeing to pay a nominal rent for the use of the fixtures and give them into my possession at the close of hostilities. June, 1864, nothing having been paid for use of said fixtures up to that time, my wife carrying proofs of my claims, including the above-named notice of confiscation to Washington, presented them to Gen. Meigs, then Quartermaster-General, who ordered the same to be paid, and vouchers are there on file, showing that two hundred dollars were paid me soon after as a rental for two years' use of the same. During the summer of 1865, the quartermaster in charge at Memphis handed the Overton building over to the original company with everything in it. This last move virtually giving all the property I had taken there in 1860 into the hands of the rebs, leaving me absolutely nothing.

Basing my claim on the simple facts above stated, I ask eight thousand six hundred and eighty-three dollars and eighty-six cents (\$8,683.86), the original value of the stock and fixtures removed from Cincinnati, October, 1860, as justly due me, a loyal citizen, for the losses sustained during those four years of war, 1861 to 1865, believing I am entitled to the same at the hands of the Congress of the United States of America assembled, and do pray your honorable body.

All of which I do fully believe to be my privilege.

W. B. HORNER.

STATE OF PENNSYLVANIA, *County of Lawrence, City of New Castle:*

Before me, an alderman in and for said city and county, personally came the claimant, William B. Horner, who, being by me duly sworn, saith that the above statement is correct, and that the facts therein set forth are true.

W. B. HORNER.

Sworn and subscribed before me this 3d day of December, 1891.

[SEAL.]

S. BOWMAN, *Alderman.*

If the claimant has a just claim it ought to be paid, and there is no reason why the proper facilities should not be afforded him to establish its validity, but the committee is not willing that the value of said property shall be fixed by ex parte affidavits, and without investigation by the proper department of the Government.

The committee, therefore, recommend the adoption of the following amendment, and that the bill, when so amended, do pass:

Strike out all after the enacting clause and insert the following:

That the Secretary of War be, and he is hereby, authorized and directed to cause to be investigated by the Quartermaster's Department of the United States Army the circumstances, character, and value of the property taken and used by United States troops, during the late war, of a certain drug store and its contents, formerly situated in Memphis, Tennessee, alleged to have been the property of W. B. Horner, of Lawrence County, Pennsylvania. Such investigation to extend to the title of the property and the incumbrances thereon, the status of the owner, whether loyal or not, the value of the property used and destroyed; and when such investigation shall be completed the Secretary of War shall find and award, and to certify to the Secretary of the Treasury what amount, if any, is equitably due to W. B. Horner from the United States as the reasonable value of said property; and that the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to W. B. Horner, out of any money in the Treasury not otherwise appropriated, the amount, if any, so found to be due from the United States; and the acceptance by said W. B. Horner of any sum paid under the provisions hereof shall be in full satisfaction of all claim, of every name and nature, for said property, or in any manner arising or growing out of the same.

HENDERSON COUNTY, TENN.

FEBRUARY 28, 1896.—Committed to the Committee of the Whole House and ordered to be printed

Mr. GIBSON. from the Committee on War Claims, submitted the following

REPORT:

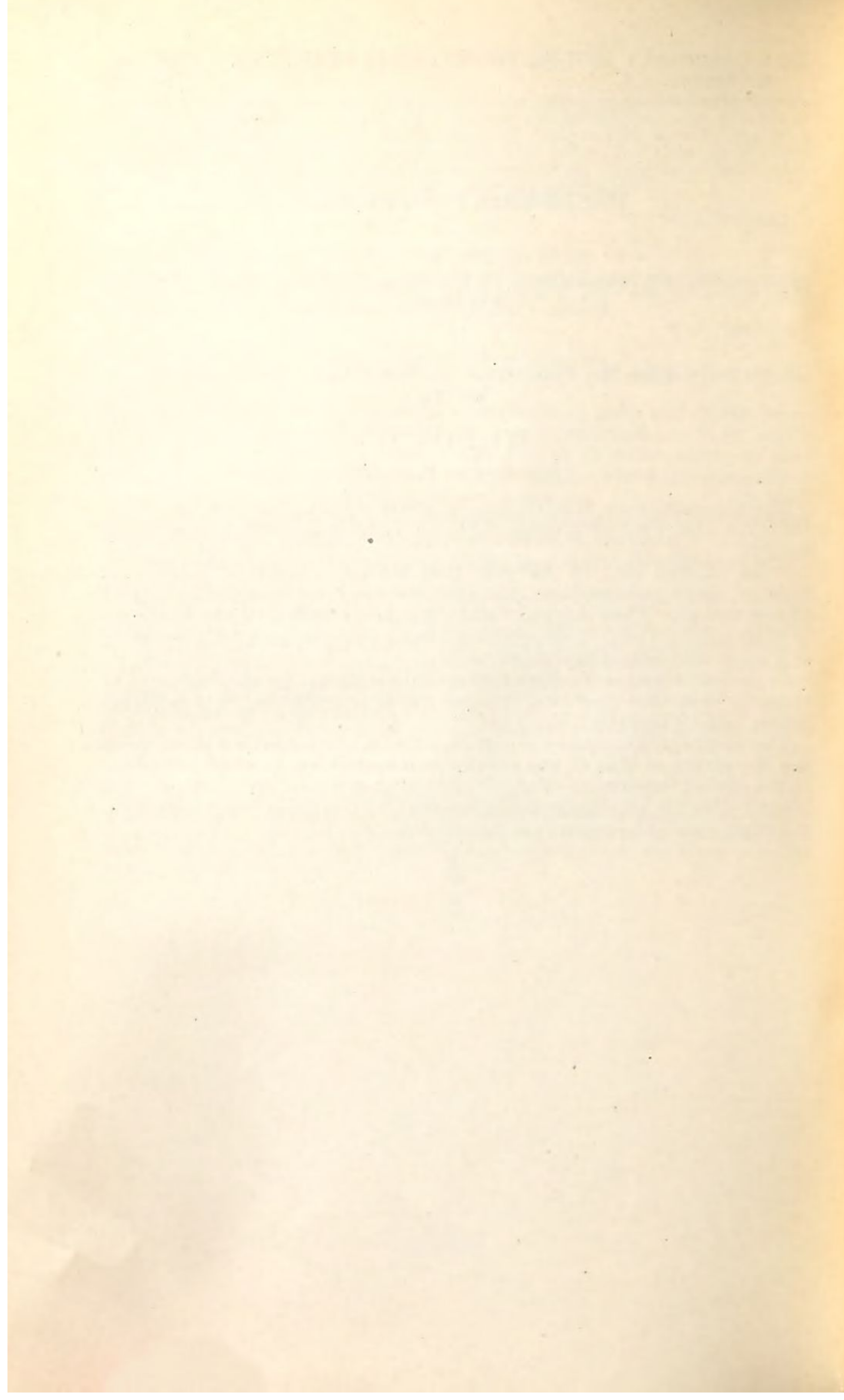
[To accompany H. R. 6667.]

The Committee on War Claims, to whom was referred the bill (H. R. 1884) for the relief of Henderson County, Tenn., submit the following report:

It is alleged that in the year 1863 the court-house of Henderson County, Tenn., situated at Lexington, was used and occupied by United States troops. They used the said court-house for six or seven months as quarters in which to sleep; that during said occupancy the building and its contents was destroyed by fire.

It seems to your committee that an investigation by the Secretary of War, or under his direction, is a matter of necessity before intelligent action can be had upon this case.

The committee therefore report herewith a bill conferring power upon the Secretary of War to have the case investigated through the Quartermaster's Department of the United States Army, and to report the result, with his recommendation thereon, to Congress for its action in the premises, and recommend its passage.



ALLOWANCE OF CERTAIN CLAIMS.

FEBRUARY 28, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GIBSON, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 5607.]

The committee on War Claims, to whom was referred the bill (H. R. 5607) for the allowance of certain claims reported by the accounting officers of the United States Treasury Department, submit the following report:

On February 1, 1895, there was referred to the Committee on War Claims a letter from the Acting Secretary of the Treasury transmitting a list of 23 claims arising under act of July 4, 1864, and allowed by the proper accounting officers since May 4, 1894, amounting to \$3,256.35. The letter is as follows:

[House Ex. Doc. No. 277, Fifty-third Congress, third session.]

TREASURY DEPARTMENT, *January 30, 1895.*

SIR: In compliance with the second section of the act of Congress approved June 16, 1874 (18 Stat. L., p. 75), I have the honor to transmit herewith, together with the papers in the cases, a list of claims arising under the act of July 4, 1864, examined and allowed by the proper accounting officers since May 4, 1894, the date of last report, amounting to \$1,152.80.

In this connection I would respectfully invite attention to similar lists of claims transmitted to Congress on the following dates, to wit: April 19, 1892, amounting to \$1,559.80; January 14, 1893, \$375, and May 5, 1894, \$168.75, all of which are contained in the accompanying House Ex. Doc. No. 212, Fifty-third Congress, second session, and remain as yet unprovided for.

Respectfully, yours,

S. WIKE,
Acting Secretary.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

TREASURY DEPARTMENT,
OFFICE OF AUDITOR FOR THE WAR DEPARTMENT,
Washington, D. C., January 23, 1895.

SIR: In pursuance of the second section of the act of June 16, 1874 (16 Stat. L., p. 75), I inclose a list of claims examined and allowed under the provisions of the act of July 4, 1864, embracing those allowed by the Third Auditor prior to October 1, 1894, and those allowed by this office since that date, including all the claims of this class approved in both offices since the report of the Third Auditor of May 4, 1894, amounting to \$1,152.80.

I invite attention to the fact that no appropriation has yet been made for payment of claims reported to the Secretary by the Third Auditor on the 13th of April, 1892 (House Ex. Doc. No. 208, Fifty-second Congress, first session), and on January 13, 1893 (House Ex. Doc. No. 190, Fifty-second Congress, second session), or for the payment of the claim of the estate of John C. Owensby, deceased (George W. Lewis, administrator), transmitted to you May 4, 1894.

Respectfully, yours,

T. STOBO FARROW, *Auditor.*

Hon. JOHN G. CARLISLE,
Secretary of the Treasury.

List.

Claim.	Allowed to—	Amount.
124240	Vincent Weathers, deceased (Elizabeth G. Weathers, executrix), of Todd County, Ky.	\$300.00
30066	Thomas Phillips, deceased (John Phillips, administrator), of Wilson County, Tenn. (Above allowed by Third Auditor.)	140.00
88838	John Rowzee, deceased (George A. Rowzee, administrator), of Montgomery County, Md.	93.80
80660	Leonard Eiselstein, deceased (Valentine Eiselstein, administrator), of Meigs County, Ohio.	69.00
93502	John Wood, deceased (M. E. Whitaker, administrator), of Lincoln County, Tenn.	140.00
79916	James M. Miller, deceased (W. M. Miller, administrator), of Bourbon County, Ky.	150.00
62595	James M. Grimes, deceased (T. H. Nixon, administrator), of Maury County, Tenn.	260.00

[House Ex. Doc. No. 212, Fifty-third Congress, second session.]

TREASURY DEPARTMENT, *May 5, 1894.*

SIR: In compliance with the second section of the act of Congress approved June 16, 1874 (18 Stat. L., p. 75), I have the honor to transmit herewith, together with the papers in the case, a claim arising under the act of July 4, 1864, examined and allowed by the proper accounting officers since January 13, 1893, amounting to \$168.75.

In this connection I would respectfully invite attention to two similar lists of such claims transmitted to Congress, one on April 19, 1892, amounting to \$1,559.80, and the other on January 14, 1893, amounting to \$375, both of which are contained in the accompanying copy of House Ex. Doc. No. 190, Fifty-second Congress, second session, and remain as yet unprovided for.

Respectfully, yours,

W. E. CURTIS,
Acting Secretary.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

TREASURY DEPARTMENT, OFFICE OF THE THIRD AUDITOR,
Washington, D. C., May 4, 1894.

SIR: In pursuance of the second section, act of June 16, 1874 (18 Stat. L., p. 75), I inclose a claim in favor of the estate of John C. Owensby, deceased, George W. Lewis, administrator, which is the only claim which has been examined and allowed under the provisions of the act of July 4, 1864, since January 13, 1893, when I transmitted to the Secretary of the Treasury a list of claims under said act.

I respectfully call attention to a list of allowances of this class, amounting, in the aggregate, to \$1,559.80, which I transmitted to the Secretary of the Treasury on April 13, 1892, and which was certified by him to the Speaker of the House of Representatives, and for which an appropriation has not yet been made (vide list in House Ex. Doc. No. 208, Fifty-second Congress, first session), and also to the list transmitted under said act of July 4, 1864, on January 13, 1893, amounting to \$375, for which, also, Congress has not made any appropriation. (Vide list in House Ex. Doc. No. 190, Fifty-second Congress, second session.)

Respectfully, yours,

SAM'L BLACKWELL, *Auditor.*

Hon. JOHN G. CARLISLE,
Secretary of the Treasury.

[House Ex. Doc. No. 190, Fifty-second Congress, second session.]

TREASURY DEPARTMENT, *January 14, 1893.*

SIR: In compliance with the second section of the act of Congress approved June 16, 1874 (18 Stat. L., p. 75), I have the honor to transmit herewith, together with the papers in each case, a list of claims arising under the act of July 4, 1864, examined and allowed by the proper accounting officers since April 12, 1893, amounting to \$375.

I also inclose a similar list of claims transmitted to Congress April 19, 1892, and contained in the accompanying House Ex. Doc. No. 208, Fifty-second Congress, first session, amounting to \$1,559.80, which as yet remain unprovided for.

Respectfully, yours,

CHARLES FOSTER, *Secretary.*

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

TREASURY DEPARTMENT, OFFICE OF THE THIRD AUDITOR,
Washington, D. C., January 13, 1893.

SIR: In pursuance of section 2, act June 16, 1874 (18 Stat. L., p. 75), I inclose a list of claims allowed under the provisions of the act of July 4, 1864, the present list embracing the allowances since April 13, 1892, viz:

Thomas Alexander, deceased, Johnson County, Mo., J. A. Houston, administrator of.....	\$125. 00
John Bain, deceased, Lawrence County, Mo., William E. Bain and Mary E. Bain, children and sole heirs of.....	100. 00
John M. Hart, Bourbon County, Ky.....	150. 00
Total	375 00

The papers pertaining to these three claims are herewith inclosed.

I also invite attention to the list of allowances of this class, aggregating \$1,559.80, which I reported to you on April 13, 1892, and which was certified by you to the Speaker of the House of Representatives, and for which an appropriation has not been made. (Vide list, aggregating \$1,559.80, in House Ex. Doc. No. 208, Fifty-second Congress, first session. Copy herewith.)

Very respectfully,

W. H. HART, Auditor.

THE SECRETARY OF THE TREASURY.

[House Ex. Doc. No. 208, Fifty-second Congress, first session.]

TREASURY DEPARTMENT, April 19, 1892.

SIR: In compliance with the second section of the act of Congress approved June 16, 1874 (18 Stat. L., p. 75), I have the honor to transmit herewith, together with the papers in each case, a list of claims arising under the act of July 4, 1864, examined and allowed by the proper accounting officers since February 7, 1891, amounting to \$1,559.80. * * *

Respectfully, yours,

O. L. SPAULDING,
Acting Secretary.

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

TREASURY DEPARTMENT, OFFICE OF THE THIRD AUDITOR,
Washington, D. C., April 13, 1892.

SIR: In pursuance of the second section, act June 16, 1874 (18 Stat. L., p. 75), I inclose a list of claims examined and allowed under the provisions of the act of July 4, 1864, the present list embracing the claims allowed since those reported to you on February 7, 1891, the aggregate being \$1,559.80. * * *

Very respectfully,

W. H. HART, Auditor.

The SECRETARY OF THE TREASURY.

Claim.	Allowed to—	Amount.
44644	Jenkins, Benjamin, deceased (S. N. McMurray, administrator of), of Blount County, Tenn.....	\$125. 00
115441	Johnson, Jeremiah, C., of Knox County, Tenn.....	135. 00
90875	Rawlings, Caroline R., deceased (Dr. G. B. Rawlings and Rosa E. Clark, nee Rawlings, children of), of Fayette County, Tenn.....	47. 68
117252	Baker, George W., deceased (Lucinda Baker, administratrix of), of Madison County, Ky.....	553. 12
117202	Peal, William R., of McCracken County, Ky.....	140. 00
85922	Stephens, Marion, of Metcalfe County, Ky.....	95. 00
87059	Stewart, Bennett, deceased (R. B. Brown, administrator of), of Gallatin County, Ky.....	150. 00
119594	Wallace, Harbert B., of Graves County, Ky.....	125. 00
116062	Guittard, George, deceased (Madeline Guittard, widow of), of Marshall County, Kans.....	5. 20
82239	Martin, Peter, of Crawford County, Mo.....	77. 80
118913	Mohler, Benjamin, of Otoe County, Nebr.....	100. 00
40001	Thomson, John A., of Jefferson County, W. Va.....	6. 00
	Total	1, 559. 80

No appropriation is made to pay the claim of Peter Martin, of Crawford County, Mo., for the reason that a clause was inserted in the general deficiency bill, third session Fifty-third Congress, to pay him the amount allowed by the accounting officers. (See 28 Stat. L., p. 871.)

The committee have compared the bill with the cases favorably reported by the accounting officers and find the same correct, and recommend the passage of the bill.

The amount appropriated in the bill is \$3,178.55.

○

JAMES C. SLAGHT.

FEBRUARY 28, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HURLEY, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 6208.]

The Committee on War Claims, to whom was referred the bill (H. R. 6208) for the relief of James C. Slaght, submit the following report:

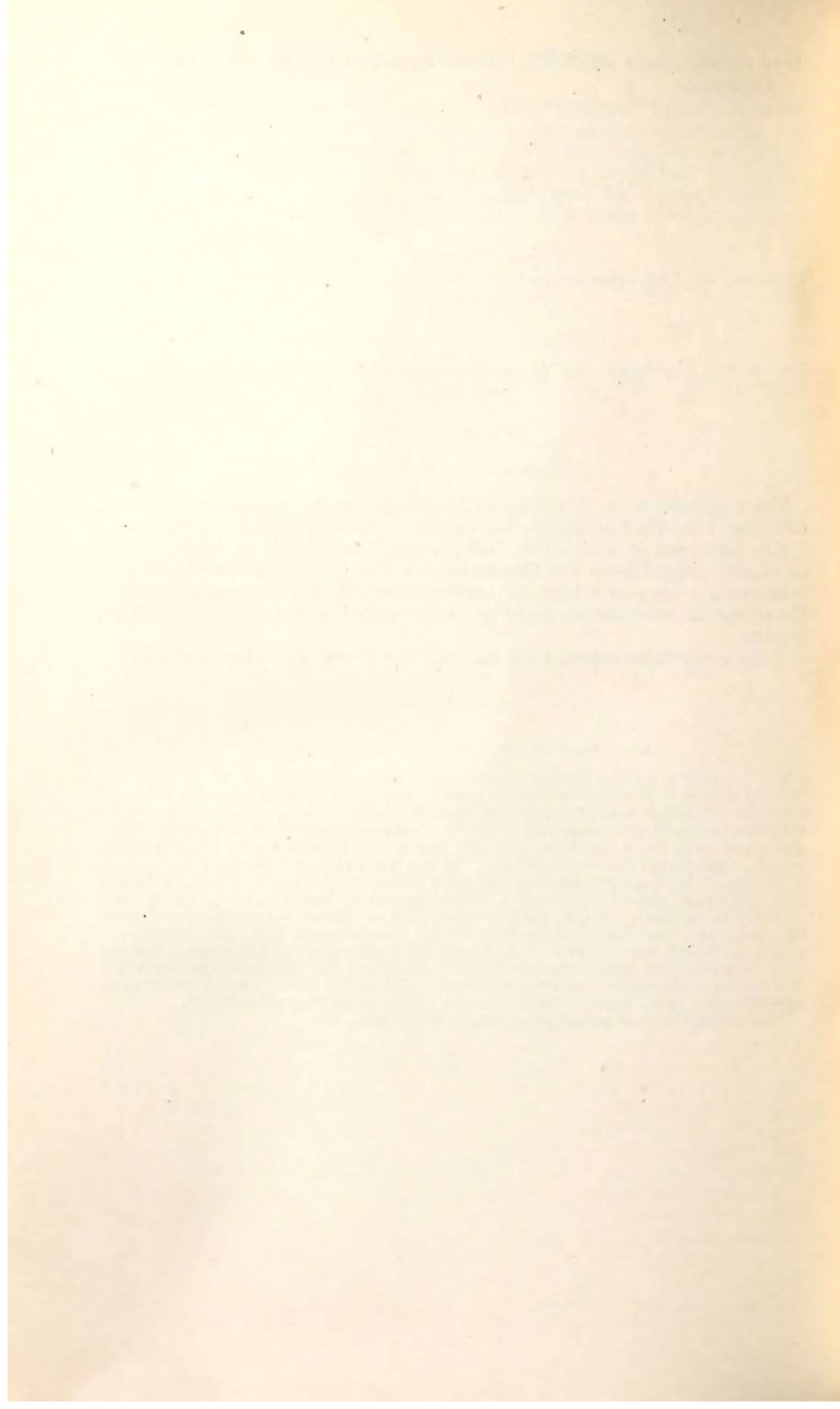
The facts out of which this bill for relief arise will be found stated in House report from the Committee on War Claims of the Fifty-first Congress, a copy of which is hereto attached for information. It is therefore deemed unnecessary to recapitulate the facts set forth in that report.

Your committee report back the bill and recommend its passage.

[House Report No. 2068, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 8538) for the relief of James C. Slaght, respectfully report that Captain Slaght was a captain and assistant quartermaster of volunteers, and he was for a long time acting as chief quartermaster of the Department of North Carolina; that he was charged with the disbursement of large amounts of public funds, and responsible for a vast amount of public property; that at the end of the war he resigned from the Army and, as he supposed, settled his accounts; but some three or four years afterwards he was sent difference sheets, involving a large amount of Government property, and required to explain the same; that in order to do so he was compelled to reemploy his clerk, and that the expenses incurred by him for clerk hire, etc., amount to \$1,840, for which he rendered a bill to the Quartermaster's Department. General Rufus Ingalls, then Quartermaster-General, examined the bill and considered it a just and equitable claim, and recommended payment of \$1,200, but there being no appropriation from which it could be paid, he has never been reimbursed.

Your committee recommend the passage of the bill.



C. AUGUSTA URQUHART.

FEBRUARY 28, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BUCK, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1357.]

The Committee on War Claims, to whom was referred the bill (H. R. 1357) for the relief of C. Augusta Urquhart, submit the following report:

The history of the claim is as follows:

In the year 1862 Mrs. Cora A. Slocomb, now deceased, and her daughters, Miss Ida A. Slocomb (now Mrs. Richardson) and Mrs. Caroline Augusta Urquhart, all of the city of New Orleans, La., were the owners of a large amount of real and personal property situated in said city. In the summer of that year they applied to Gen. B. F. Butler, then in command of the military district in which New Orleans was situated, for permission to leave the city and repair to a country seat owned by them in the mountain region of North Carolina, where they had usually spent their summers. The permission was granted on condition that the parties should in no manner aid or abet the war then being waged against the Government. Fears having been expressed by these ladies that their property might be interfered with by the military authorities during their absence, General Butler promised that it should not be disturbed. Relying on this assurance the petitioners, after placing their property in the charge of an agent, left the city and went to their country seat above mentioned.

As long as General Butler remained in command the pledge given by him was strictly fulfilled, but not long afterwards he was superseded by Gen. N. P. Banks. Shortly after the latter took command a general order, No. 202, was issued for the seizure of all property belonging to absentees.

Under this order all the real estate of these ladies in the city, together with such personal property as was found therein, was seized by the military authorities. The principal portion of it, including the residence of these ladies, was applied to various military uses; the remaining portion that was not so used was turned over to B. F. Flanders, supervising special agent of the Treasury in New Orleans, by whom the rents thereon were collected and paid or accounted for to the Treasury Department.

The following personal property was also seized under special orders subsequently issued, to wit: Fifty-two shares of the stock of the New Orleans Gas-Light Company, belonging to Mrs. Slocomb.

At a later date four stores belonging to Miss Ida Slocomb, which had been insured in the Merchants' Insurance Company of New Orleans at \$15,000, having been destroyed by fire, the amount payable on the loss,

to wit, \$14,300, was, in obedience to the military order, paid to Assistant Quartermaster McClure.

At the close of the war all the property of these ladies which had been seized and appropriated, as above stated, was, by order of the President, restored to their possession; but no portion of the moneys which had been collected, as above stated, including also the dividends which had accrued on the gaslight stock above mentioned, was refunded, the same having been paid into the Treasury, and thereby placed beyond the control of the Executive.

The petitioners therefore resorted to Congress for relief. They presented their petitions at the first session of the Forty-third Congress, by which they were referred to the Committee on War Claims.

A favorable report was made thereon by the committee, and a bill providing for the payment to the petitioners of the amounts respectively claimed by them, but no action was taken on the bill by that Congress. The petitions were again presented at the first session of the Forty-fourth Congress, and referred, as before, to the Committee on War Claims. A similar report was made and a similar bill introduced by the committee of that Congress. The bill went upon the Calendar, but the Congress expired before it was reached.

The claim has been presented to each Congress since the Forty-fourth, and has been favorably reported upon by committees of both Houses.

General Butler, the representative of the United States, who was on the spot, was cognizant of all the facts and knew what policy and measures the interest of his constituent demanded, who gave the pledge and guaranteed the safeguard, says, very positively, that the United States are wrongfully in possession of the moneys, and that every principle of right-doing and fair play demands the return of those moneys to the rightful owners.

Every committee of the Congress of the United States that has examined the case has come to the same conclusion.

And a long line of decisions of the Supreme Court of the United States have consistently maintained a principle which declares that the rights of beneficiaries situated as these are should be respected.

Numerous cases before Congress for relief under similar circumstances have been passed, which illustrate the unanimity of the sentiment which finds expression in the declaration that a government no more than an individual should profit by its own wrong.

As far back as 1864, in the case of the *Venice*, the United States Supreme Court held that where there was permanent, complete, and substantial military occupation of a given territory, that such occupation carried with it the obligation to afford protection to unoffending persons and property. The same doctrine was applied and reaffirmed in the case of the *Planters' Bank v. The Union Bank* (16 Wallace, p. 483), where Judge Strong repeated in totidem verbis the language of the Supreme Court in the case of the *Venice*. This latter decision was rendered in 1872.

In the case of the *Venice* (2 Wall., 258), the Supreme Court say:

This proclamation (of Major-General Butler, May 1, 1862) declared the city (of New Orleans) to be under martial law, and announced the principles by which the commanding general would be guided in its administration. Two clauses only have any important relation to the case before us. One is in these words: "All the rights of property, of whatever kind, will be held inviolate, subject only to the laws of the United States." The other is thus expressed: "All foreigners, not naturalized, claiming allegiance to their respective governments, and not having made oath of allegiance to the Government of the Confederate States, will be protected in their persons and property as heretofore under the laws of the United States." *These*

clauses only reiterated the rules established by the legislative and executive action of the National Government in respect to the portions of the States in insurrection, occupied and controlled by the troops of the Union.

The fifth section of the act of July 13, 1861, chapter 3 (12 Stat. L., 255), providing for the collection of duties and for other purposes, provided that, under certain conditions, the President, by proclamation, might declare the inhabitants of a State, or any section or part thereof, to be in a state of insurrection against the United States. In pursuance of this act, the President, on the 16th of August following, issued a proclamation declaring that the inhabitants of the States of Virginia, North Carolina, Tennessee, Arkansas, and the other States south of these, except the inhabitants of Virginia west of the Alleghenies, and of those parts of States maintaining a loyal adhesion to the Union and the Constitution, "or from time to time occupied and controlled by forces of the United States engaged in the dispersion of the insurgents," were in a state of insurrection against the United States.

This legislative and executive action related, indeed, mainly to trade and intercourse between the inhabitants of loyal and the inhabitants of insurgent parts of the country; but, by excepting districts occupied and controlled by national troops from the general prohibition of trade, it indicated the policy of the Government not to regard such districts as in actual insurrection, or their inhabitants as subject in most respects to treatment as enemies. Military occupation and control, to work this exception, must be actual; that is to say, not illusory, not imperfect, not transient; but substantial, complete, and permanent.

Being such, it draws after it the full measure of protection to persons and property consistent with a necessary subjection to military government.

It does not, indeed, restore peace, or, in all respects, former relations; but it replaces rebel by national authority, and recognizes to some extent the conditions and the responsibilities of national citizenship. (2 Wall., 258.)

This decision of the Supreme Court of the United States was rendered in 1864, and was announced by Chief Justice Chase, who bore so prominent and influential a part in giving shape, character, and vigor to the judicial determination of the great questions incident to or growing out of events and acts of the civil war.

In 1872 the same doctrine was repeated and reaffirmed by a decision of the court which has been already referred to. And since that time the decisions of the courts have been uniform and consistent, the whole current of decisions indicating a steadfast purpose to hold the scales of justice even and fairly as between the Government and its citizens.

The Supreme Court in this case of *Planters' Bank v. Union Bank* (16 Wallace, pp. 494-497), had occasion to pass upon the validity of order No. 202, and it was there decided that General Banks had no authority to make said order, and that it was wholly invalid and worked no divestiture of the owner's right and title to the funds seized thereunder. The following extract from the opinion of the court will show the reasoning and principle on which its decision was rested:

The validity of the order (No. 202) is therefore the first thing to be considered. It was made on the 17th August, 1863. Then the city of New Orleans was in quiet possession of the United States forces. It had been captured more than fifteen months before that time, and undisturbed possession was maintained ever after its capture. Hence the order was no attempt to seize property "*flagrante bello*," nor was it a seizure for immediate use of the Army. It was simply an attempt to confiscate private property, which, though it may be subjected to confiscation by legislative authority, is, according to the modern law of nations, exempt from capture as booty of war. Still, as the war had not ceased, though it was not flagrant in the district, and as General Banks was in command of the district, it must be conceded that he had power to do all that the laws of war permitted, except so far as he was restrained by the pledged faith of the Government or by the effect of Congressional legislation. A pledge, however, had been given that rights of property should be respected. When the city was surrendered to the army under General Butler a proclamation was issued, dated May 1, 1862, one clause of which was as follows: "*All the rights of property of whatever kind will be held inviolate, subject only to the laws of the United States.*" This, as was remarked in the case of the *Venice*, only reiterated the rules established by the legislative and executive action of the National Government in respect to the portions of the States in insurrection occupied and controlled by the troops of the Union. That action, it was said, indicated the policy of the Government to be not to regard districts occupied and controlled by national

troops as in actual insurrection, or their inhabitants as subject, in most respects, to treatment as enemies.

Substantial, complete, and permanent military occupation and control was held to draw after it the full measure of protection to persons and property consistent with a necessary subjection to military government. We do not assert that anything in General Butler's proclamation exempted property within the occupied district from *liability to confiscation* as enemies' property, if in truth it was such. All that is now said is, that after that proclamation private property in the district was not subject to military seizure as booty of war. But admitting as we do that private property *remained subject to confiscation*, it is undeniable that confiscation was possible only to the extent and in the manner provided by the acts of Congress. Those acts were passed on August 6, 1861, and on July 17, 1862. No others authorized the confiscation of private property, and they provided the manner in which *alone* confiscation could be made. They designated Government agents for seizing enemies' property, and they directed the mode of procedure for its *condemnation in the courts*. The system devised was necessarily exclusive. No authority was given to a military commander, as such, to effect any confiscation. * * * It is therefore of little importance to inquire what, under the general laws of war, are the rights of a conqueror, for during the recent civil war the Government of the United States asserted no general rights in virtue of conquest to compel the payment of private debts to itself. On the contrary it was impliedly disclaimed except so far as the acts of 1861 and 1862 asserted it. These enactments declaring that private property belonging to certain classes of persons might be confiscated, in the manner particularly described, are themselves expressive of an intent that the rights of conquest should not be exercised against private property except in the cases mentioned and in the *manner* pointed out. * * * It follows then that the order of General Banks was one which he had no authority to make, and that his direction to the bank to pay to the quartermaster of the Army the debt (or deposit) due to the Planters' Bank was wholly invalid.' * * *

The Supreme Court having thus declared that the attempt of the commanding general to enforce by military order the confiscation acts of Congress against the property and effects of even actual enemies of the United States was without authority and invalid, and it further appearing that there has never been any judicial procedure for the condemnation of the funds seized, as directed and required by the confiscation acts of 1861 and 1862, so as to divest and defeat the private rights of the owner, it follows that the United States never acquired any valid interest or title to the money of petitioners turned over to the Government under said order 202. The possession obtained by the Government under the unauthorized act of its commanding officer conferred upon it no higher or stronger right to this fund, even conceding that the original petitioners had been for a time in sympathy with the people among whom they were living than that acquired by military seizure under the captured and abandoned property acts. Under an invalid and unauthorized order of its commanding general the Government simply got possession of the fund and placed itself in position to enforce against it the confiscation acts of 1861 and 1862, provided the owner had subjected himself to the penalties of said acts by aiding and abetting the rebellion. There has been no legal or valid divestment of the title and interest of petitioners in the money seized. The beneficiaries under the authority of *Armstrong* and *Pargoud* cases (13 and 16 Wallace), are entitled to these moneys. (Report of Senate Committee in *Walworth's* case, No. —, second session Forty-eighth Congress.)

Similar language was used by the Senate committee in submitting its favorable report in the case of John Franklin, administrator of *Armfield*. (See 23 Stat. L., p. 617.) There are many other cases to the same effect.

The same reasoning and principle which hold as to the seizure and appropriation, without warrant of law, of funds, moneys in bank, or personal credits, applies equally and with equal weight to the use, occupation, and appropriation of real property similarly circumstanced.

When General Butler took possession of New Orleans he issued a proclamation, in which he declared that "all rights of property, *of whatever kind*, will be held inviolate, subject only to the laws of the United States." * * *

The taking of the property of these parties was not authorized by any law. It was in utter defiance of the acts of Congress of August 6, 1861, and July 17, 1862. It was a taking of property without a proceeding *in rem*, as required in said acts. Under the facts and law it could not be said to have been seized "*flagrante bello*," for it was not until several months after the capture of the city, after the proclamation of General Butler above referred to, and after the pledges given by him, as the commanding general, that the property of claimants should be protected and not interfered with. Property thus situated is exempt from capture as booty of war. (See case of *Planters' Bank vs. Union Bank*, 16 Wallace, p. 483.) Unless the authority of this case is dis-

regarded, the finding of the committee must be in favor of the claimants. (Forty-eighth Congress, first session, Senate Report No. 846, in the matter of the claim of Slocomb, Richardson, and Urquhart.)

Acting upon a similar doctrine and principle, the Forty-ninth Congress of the United States, at its first session, passed an act which was approved March 29, 1886 (24 Stat. L., p. 684), appropriating \$38,661.15 to pay Slocomb, Richardson, and Urquhart for moneys that had been collected or appropriated by General Banks in 1863, under General Order, No. 202, which the Supreme Court had held it was incompetent for him to make or execute.

President Lincoln's proclamation of May 12, 1862, declared the ports of Beaufort, Port Royal, and *New Orleans* (which had been closed by blockade) open, subject to limitations and regulations (12 Stat. L., p. 1264).

President Lincoln's proclamation of 1st January, 1863, excepted from the penalties of insurrectionary districts the following-described portion of the State of Louisiana: The parishes of St. Bernard, Plaquemines, Jefferson, St. John the Baptist, St. Charles, St. James, Ascension, Assumption, Terrebonne, Lafourche, St. Mary, St. Martin, and Orleans, *including the city of New Orleans* (12 Stat. L., p. 1269).

President Lincoln's proclamation, 1st July, 1862 (12 Stat. L., p. 1266) exempted from the penalties of insurrectionary districts a territory consisting of 39 counties in Virginia, which subsequently became the larger part of the new State of West Virginia. The proclamation of April 20, 1863, contained nine other counties, and to these were subsequently added two more, Berkeley and Jefferson, by the act 10th March, 1866 (14 Stat. L., p. 350), and the joint resolution, 18th June, 1866 (*ib.*, 360). See also West Virginia admission act, 31st December, 1862 (12 Stat. L., p. 633).

All this property was under protection of a safeguard issued by the representative of the United States under circumstances which entitled it to complete immunity. A safeguard has always been considered by barbarian as well as civilized as the most solemn and sacred of pledges, and no excuse or exception ever justifies its violation.

The present bill provides for reference of this Urquhart claim to the Court of Claims, as recommended by the reports of the several committees above cited.

This measure of relief Congress may not deny the petitioners without disregarding the constitutional guaranty of protection, overruling the decisions of the Supreme Court, setting aside the proclamation of the President, repudiating the pledges and the safeguard of General Butler, and reversing the practice and usage of Congress in this relation.

In conclusion, it is submitted that, under the decisions of the courts cited, and in view of constitutional guaranties and the laws of the United States, as also of the pledges of protection implied by the President's proclamations and expressed in General Butler's general order, May 1, 1862, New Orleans was not, at the time of the use and occupation and appropriation of petitioner's properties, "*the seat of war*," nor was it "*insurrectionary territory*." It was, on the contrary, territory within the pacific and disputed possession and control of the United States. And consequently all unoffending persons and property therein was under the protection of the Constitution and the laws.

Your committee recommend the passage of the bill.

The committee attach to their report the proclamation of Maj. Gen. Benjamin F. Butler, under date of May 1, 1862, and Special Order, No. 202, of Major-General Banks, of August 17, 1863, and ask that it be printed as an appendix to this report.

PROCLAMATION OF MAJ. GEN. BENJAMIN F. BUTLER.

PROCLAMATION.

HEADQUARTERS DEPARTMENT OF THE GULF,
New Orleans, May 1, 1862.

The city of New Orleans and its environs, with all its interior and exterior defenses, having been surrendered to the combined naval and land forces of the United States, and having been evacuated by the rebel forces in whose possession they lately were, and being now in occupation of the forces of the United States, who have come to restore order, maintain public tranquillity, enforce peace and quiet under the Constitution of the United States, the major-general commanding the forces of the United States in the Department of the Gulf hereby makes known and proclaims the object and purposes of the Government of the United States in thus taking possession of the city of New Orleans and the State of Louisiana, and the rules and regulations by which the laws of the United States will be for the present, and during a state of war, enforced and maintained for the plain guidance of all good citizens of the United States, as well as others who may heretofore have been in rebellion against their authority.

Thrice before has the city of New Orleans been rescued from the hand of a foreign government, and still more calamitous domestic insurrection, by the money and arms of the United States. It has of late been under the military control of the rebel forces, claiming to be the peculiar friends of its citizens, and at each time, in the judgment of the commander of the military forces holding it, it has been found necessary to preserve order and maintain quiet by the administration of law martial. Even during the interim from its evacuation by the rebel soldiers and its actual possession by the soldiers of the United States, the civil authorities of the city have found it necessary to call for the intervention of an armed body known as the "European Legion," to preserve public tranquillity. The commanding general, therefore, will cause the city to be governed, until the restoration of municipal authority and his further orders, by the law martial, a measure for which it would seem the previous recital furnishes sufficient precedents.

All persons in arms against the United States are required to surrender themselves, with their arms, equipments, and munitions of war. The body known as the "European Legion," not being understood to be in arms against the United States, but organized to protect the lives and property of the citizens, are invited still to cooperate with the forces of the United States to that end, and, so acting, will not be included in the terms of this order, but will report to these headquarters.

All flags, ensigns, and devices tending to uphold any authority whatever, save the flag of the United States and the flags of foreign consulates, must not be exhibited but suppressed. The American ensign, the emblem of the United States, must be treated with the utmost deference and respect by all persons, under pain of severe punishment.

All persons well disposed toward the Government of the United States, who shall renew their oath of allegiance, will receive the safeguard and protection in their persons and property of the United States, the violation of which by any person is punishable with death.

All persons still holding allegiance to the Confederate States will be deemed rebels against the Government of the United States, and regarded and treated as enemies thereof.

All foreigners not naturalized and claiming allegiance to their respective governments, and not having made oath of allegiance to the supposed government of the Confederate States, will be protected in their persons and property as heretofore under the laws of the United States.

All persons who may heretofore have given their adherence to the supposed government of the Confederate States, or have been in their service, who shall lay down and deliver up their arms and return to peaceful occupations and preserve quiet and order, holding no further correspondence nor giving aid and comfort to the enemies of the United States, will not be disturbed either in person or property, except so far, under the orders of the commanding general, as the exigencies of the public service may render necessary.

The keepers of all public property, whether State, national, or Confederate, such as collections of art, libraries, museums, as well as all public buildings, all munitions of war, and armed vessels, will at once make full return thereof to these headquarters; all manufacturers of arms and munitions of war will report to these headquarters their kind and places of business.

All rights of property, of whatever kind, will be held inviolate, subject only to the laws of the United States.

All inhabitants are enjoined to pursue their usual avocations; all shops and places of business and amusement are to be kept open in the accustomed manner, and services to be had in churches and religious houses as in times of profound peace.

Keepers of all public houses, coffeehouses, and drinking saloons, are to report their names and numbers to the office of the provost-marshal; will there receive license and be held responsible for all disorders and disturbances of the peace arising in their respective places.

A sufficient force will be kept in the city to preserve order and maintain the laws.

The killing of an American soldier by any disorderly person or mob is simply assassination and murder and not war, and will be so regarded and punished.

The owner of any house or building in or from which such murder shall be committed will be held responsible therefor and the house be liable to be destroyed by the military authority.

All disorders and disturbances of the peace done by combination and numbers, and crimes of an aggravated nature interfering with forces or laws of the United States, will be referred to a military court for trial and punishment; other misdemeanors will be subject to the municipal authority, if it chooses to act. Civil causes between party and party will be referred to the ordinary tribunals. The levy and collection of all taxes, save those imposed by the laws of the United States, are suppressed, except those for keeping in repair and lighting the streets and for sanitary purposes. Those are to be collected in the usual manner.

The circulation of Confederate bonds, evidences of debt, except notes in the similitude of bank notes issued by the Confederate States, or scrip, or any trade in the same, is strictly forbidden. It having been represented to the commanding general by the civil authorities that these Confederate notes, in the form of bank notes, are, in a great measure, the only substitute for money which the people have been allowed to have, and that great distress would ensue among the poorer classes if the circulation of such notes was suppressed, such circulation will be permitted so long as any one may be inconsiderate enough to receive them, till further orders.

No publications, either by newspaper, pamphlet, or handbill, giving accounts of the movements of soldiers of the United States within this Department, reflecting in any way upon the United States or its officers, or tending in any way to influence the public mind against the Government of the United States, will be permitted; and all articles of war news, or editorial comments, or correspondence, making comments upon the movements of the armies of the United States, or the rebels, must be submitted to the examination of the officer who will be detailed for that purpose from these headquarters.

The transmission of all communications by telegraph will be under the charge of an officer from these headquarters.

The armies of the United States came here, not to destroy, but to make good, to restore order out of chaos, and the government of laws in the place of the passions of men; to this end, therefore, the efforts of all well-disposed persons are invited to have every species of disorder quelled, and if any soldier of the United States should so far forget his duty or his flag as to commit any outrage upon any person or property, the commanding general requests that his name be instantly reported to the provost guard, so that he may be punished and his wrongful act redressed.

The municipal authority, so far as the police of the city and crimes are concerned, to the extent before indicated, is hereby suspended.

All assemblages of persons in the streets, either by day or night, tend to disorder, and are forbidden.

The various companies composing the fire department in New Orleans will be permitted to retain their organizations and are to report to the provost-marshal, so that they may be known and not interfered with in their duties.

And finally, it may be sufficient to add, without further enumeration, that all the requirements of martial law will be imposed so long as, in the judgment of the United States authorities, it may be necessary. And while it is the desire of these authorities to exercise this government mildly and after the usages of the past, it must not be supposed that it will not be vigorously and firmly administered, as occasion calls.

By command of Maj. Gen. Butler:

GEO. C. STRONG, *A. A. G., Chief of Staff.*

ORDER OF MAJOR-GENERAL BANKS.

SPECIAL ORDER, }
No. 202. }

HEADQUARTERS DEPARTMENT OF THE GULF,
New Orleans, August 17, 1863.

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The several banks and banking corporations in the city of New Orleans will, without delay, pay over to Col. S. B. Holabird, chief quartermaster, or to such officer of the Quartermaster's Department as he may designate, all moneys in their

possession belonging to or standing upon their books to the credit of any person registered as an enemy of the United States, or engaged in any manner in the military, naval, or civil service of the so-called "Confederate States," or who shall have been or may hereafter be convicted of rendering any aid or comfort to the enemies of the United States; and all moneys in their possession or standing upon their books to the credit of any corporation, association, or pretended government in hostility to the United States.

These funds will be held and accounted for by the Quartermaster's Department subject to the future adjudication of the Government of the United States.

* * * * *

By command of Major-General Banks:

RICHD. B. IRWIN,
Assistant Adjutant-General.



E. B. CROZIER, EXECUTRIX.

FEBRUARY 28, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GIBSON, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2834.]

The Committee on War Claims, to whom was referred the bill (H. R. 2834) for the relief of E. B. Crozier, executrix of Dr. C. W. Crozier, deceased, submit the following report:

The facts out of which this bill for relief arises will be found stated in Senate report from the Committee on Military Affairs of the Fiftieth Congress, which is adopted as the report of this committee.

Your committee recommend the passage of the bill.

[Senate report, No. 373, Fiftieth Congress, first session.]

It appears from certain papers, accompanying, that Dr. C. W. Crozier was for some time prior to May 16, 1865, a surgeon of the Confederate Army, and that after the surrender he received his parole at Macon, Ga.

It also appears from proof herewith filed that on the 16th day of May, 1865, he was, by order of Major General Wilson, of the United States Army, with headquarters at Macon, Ga., directed to take charge of two United States hospitals at Cuthbert, Ga., and instructed to transfer all the sick and wounded from Cuthbert, Ga., to Macon, Ga. (See Exhibit A.)

By subsequent orders from Headquarters Cavalry Corps, Military Division Mississippi, Dr. Crozier was further authorized to assume control and direction of the two United States hospitals at Cuthbert, the order being issued by both Major-General Wilson and Francis Greene, surgeon, acting medical director, United States Army. (See Exhibit B.)

It appears further that Dr. Crozier remained in charge of the hospitals for one month. At the end of this time an order was issued from the headquarters of the Cavalry Corps of the Middle Division of Mississippi, by Francis Greene, acting medical director, requesting free transportation for Dr. C. W. Crozier and family, including eight persons. It appears that this transportation was allowed from Macon, Ga., to Chattanooga, Tenn., but that the transportation was refused to Dr. Crozier and family from Chattanooga to Clarksville, a distance of about 200 miles, except that Dr. Crozier himself was transported as far as Nashville, Tenn.

It also appears that Dr. Crozier was never paid for his services while acting as surgeon of the United States hospitals by order of Brevet Major-General Wilson, and has never been reimbursed for the transportation of his family of seven persons from Chattanooga, Tenn., to Clarksville, Tenn., and of himself from Nashville to Clarksville.

From exhibits accompanying, it appears that Dr. Crozier formerly laid his claim before Surgeon-General Barnes, but that the Surgeon-General replied that the case was of such an exceptional character, and the particulars so imperfectly established, that he did not feel himself authorized to take any action upon it. He however referred Dr. Crozier to the Southern Claims Commission.

It further appears that the matter was laid before the Second Comptroller of the Treasury in January, 1872, and that that official replied that there was no authority in the accounting officers to grant such relief.

The present bill to procure relief was introduced.

In the meanwhile Dr. Crozier has died, and E. B. Crozier has been duly nominated as executrix.

It is recommended that so much be allowed as compensation for his services as surgeon for one month as was the established salary and perquisites of the regular surgeons of the United States Army at the time Dr. Crozier was under appointment, which is shown to be \$195.

This for the very palpable reason that Dr. Crozier was regularly appointed by the commanding officer of the department and served under a clearly implied contract as surgeon for one month. Having already received his parole he was a citizen surgeon, and as such did a month's work for the United States Government under the order of the commanding officer of that military division of the Army.

It is further recommended that the claim for compensation for transportation of the seven members of the family of Dr. Crozier from Chattanooga to Clarksville be not allowed.

This because the order for the transportation of the family of Dr. Crozier was not in the nature of an obligation, but of a courtesy and request.

See testimony herewith filed as exhibits numbering from 1 to 7, inclusive.

EXHIBIT 1.

STATE OF TENNESSEE, *Knox County*:

To all persons—greeting: Whereas at our county court, held for the county of Knox, at the court-house, in Knoxville, on the first Monday of September, 1884, it appeared to the court that C. W. Crozier, late of said county, had died, having first made his last will and testament, in which E. B. Crozier is nominated as executrix, and the said will having been proved and admitted to record, and said executrix qualified as such, it was ordered by the court that letter issue according to law.

We therefore empower the said E. B. Crozier to take into her possession, all and singular, the goods and chattels, rights and credits of the said testator wheresoever the same may be found, and all just debts of said testator, and all the legacies specified in said will, well and truly to pay, so far as the said goods and chattels, rights and credits may extend, and in all things to administer said goods and chattels, rights and credits, according to the tenor of the said will and the law of the land.

Witness, J. F. J. Lewis, clerk of the said court, at office in Knoxville, the first Monday of September, 1885.

J. F. J. LEWIS, *Clerk*.

TENNESSEE, *Knox County*:

I, J. F. J. Lewis, clerk of the county court of Knox County, Tennessee, do certify that the within is a full and correct copy of the letter of executorship issued to E. B. Crozier as the executrix of the will of the late C. W. Crozier, deceased, as the same appears of record in my office.

Given under my hand and official seal, at office in Knoxville, this the 20th day of November, 1885.

[SEAL.]

J. F. J. LEWIS, *Clerk*.

EXHIBIT A.

HEADQUARTERS CAVALRY CORPS, M. D. M.,
Macon, Ga., May 16, 1865.

SIR: You are directed to transfer all the sick and wounded who can bear transportation from Cuthbert to this city with the least possible delay, reporting their departure from Cuthbert to me by telegram.

By command of B. Maj. Gen. Wilson:

F. SALTER,
Surgeon, U. S. A., and Med. Director.

Dr. CROZIER.

EXHIBIT B.

HEADQUARTERS CAV. CORPS,
MILITARY DIV. MISS.,
Macon, Ga., June 5th, 1865.

[Orders.]

The hospitals at Cuthbert, Ga., will be immediately closed and the patients disposed of as the surgeons in charge may think best. Such of them as are able should be sent to their homes and the remainder transferred to Macon, Ga., for further treatment. The hospital property should be turned over to the judges of the inferior court for distribution among the poor, and also for the benefit of such soldiers as remain in the vicinity.

By command of Bvt. Major-Gen'l Wilson:

FRANCIS GREENE,
Surgeon, U. S. V., Act. Medical Director.

Surgeon CROZIER,
Cuthbert, Ga.

Dr. Crozier should proceed to Cuthbert, Ga., without delay.

EXHIBIT C.

HEADQUARTERS CAV. CORPS, M. D. M.,
MEDICAL DIRECTOR'S OFFICE,
Macon, Ga., June 6th, 1865.

SIR: I have the honor to request that transportation (for himself and family) to Clarksville, in Tenn., may be granted to Doctor C. W. Crozier, of the late Confederate Army, who remained at Cuthbert, Ga., in attendance on the sick and wounded, and in obedience to instructions from the medical director Cavalry Corps, M. D. M.

I am, very respectfully, your obedient servant,

FRANCIS GREENE,
Surgeon, U. S. V., Act. Med'l Dir.

Captain INHOFF,
A. A. A. Gen'l, Cav. Corps, M. D. M.

HEADQR. CAV'Y CORPS, M. D. M.,
Macon, Geo., June 6, '65.

Approved.

The Q. M. Dept. will issue the necessary transport'n to C. W. Crozier and family.
By command of Brevt. Maj. Gen. Wilson:

E. P. INHOFF,
Capt'n and A. A. A. Gen., Cav. Corps, M. D. M.

OFFICE OF CH'F Q'MAST., M. D. M.,
June 6, 1865.

Transportation furnished from Macon, Ga., to Athens, Ga., to Doctor C. W. Crozier and family.

W. E. BROWN,
Capt. and Asst. Q. M., C. C., M. D. M.

Transportation furnished from Macon to Cuthbert, Ga., June 6, for Dr. C. W. Crozier and 7 persons of his family.

W. E. BROWN,
Capt. and Ast. Q. M., C. C., M. D. M.

Transportation furnished to Dr. C. W. Crozier and 7 persons from Cartersville, Ga., to Chattanooga, Tenn., June 25, 1865.

W. J. COLBURN,
Capt. and A. Q. M.

STATE OF TENNESSEE, Knox County:

C. W. Crozier, citizen of the county and State aforesaid, to me personally known, whom I certify to be respectable and entitled to full faith and credit under oath, personally appeared, and being first duly sworn according to law, says:

That on the 16th day of May, 1865, as per Exhibit A, herewith accompanying, he was placed in charge of U. S. hospital (Hood) at Cuthbert, Georgia; that he remained in charge in such U. S. hospital doing service as surgeon from said 16th May until 16th June, 1865, when, having disposed of patients as directed, by order from Headquarters Cav. Corps Military Div. Miss., herewith accompanying, marked Exhibit B, when I left Cuthbert, Geo., for Clarksville, Tenn.

Affiant further states that he had previously visited Macon, Ga., headquarters of the U. S. Army, and was furnished transportation for himself and family, consisting, inclusive of himself, of eight persons, as per letter from Headquarters Cav'y Corps, Medical Director's Office, herewith accompanying, marked Exhibit C, this transportation to be used by him when his duties under orders as alluded to, as Exhibit B aforesaid, had been performed. He received transportation from Cuthbert, Geo., to Chattanooga, Tenn., on said order; when at Chattanooga further transportation was disallowed and refused; the distance to Clarksville from Chattanooga being about one hundred and fifty miles, and which has not since nor ever has been paid him.

Affiant makes claim for one month's services as surgeon (citizen) U. S. Army, from 16 May, 1865, to 16 June, 1865, being dollars.

He also makes claim for commutation of travel and allowance for his family of seven persons, besides himself, from Chattanooga, Tenn., to Clarksville, Tenn., distance of about one hundred and fifty miles, being dollars; and for self, from Nashville to Clarksville, distance of fifty miles. Affiant further swears he has in no way directly or indirectly received pay from the U. S. Government or any of its officers or agents for the services rendered and as claimed by him, nor for the commutation as herein claimed by him.

C. W. CROZIER, *M. D.*

Subscribed and sworn to before me this 27th day of December, 1871, and I certify foregoing to be genuine signature of affiant, and I am disinterested.

[SEAL.]

J. L. S. BLANY,
Clerk Knox Co. Court.

Respectfully returned to Dr. C. W. Crozier, Knoxville, Tenn., agreeably to request.
By order of the Surg. Gen'l:

J. S. BILLINGS,
Asst. Surg., U. S. A.

S. G. OFFICE, *Jan. 11, '72.*

EXHIBIT 3.

KNOXVILLE, TENN., *December 26, 1871.*

Surg. Gen. J. K. BARNES,
Washington, D. C.

SIR: I was appointed May 16, 1865 (unsolicited on my part), at the instance of U. S. Med. Director Sallu, by B. Maj. Gen'l Wilson, in charge of the hospitals, two in number, at Cuthbert, Ga. (as per Exhibit A). Having, in the discharge of this duty, and in obedience to orders, sent off the convalescent to their homes, and the sick and wounded that could bear transportation to Macon, on the 5th June I made a visit to Macon, hoping to get relieved from duty and to get commutation to Clarksville, Tenn., for myself and family. I was ordered back to Cuthbert (as per Exhibit B) and furnished with an order for transportation (as Exhibit C). I remained upon duty until about the 18th June, sending off the men, from time to time, as they were enabled to travel, and having six or eight remaining who could not bear transportation, two of them having to submit to an amputation of a limb. After the order of the 5th June, 1865, I induced some of the benevolent citizens of Cuthbert to take charge of them at their houses; having then closed up the hospitals as directed, and receiving commutation to Atlanta. At this place I remained four days, endeavoring to get the transportation, and finally was permitted to occupy wagons that were going after Government stores to Cartersville; from thence commutation was supplied to Chattanooga. At this place a ticket was received from the Commissary Department, which was rejected two miles from Chattanooga, and myself and family put out of the cars. Walking back, I procured an engine and brought my family to Chattanooga. Capt. Smith was in command at the latter place, who erased all the names on my ticket except my own, when I attempted explanation, exhibiting the order of Gen'l Wilson, which he would not examine or listen to my response. I received no further commutation. No contract was made between the medical director or Major-Gen'l Wilson and myself in regard to the remuneration for my services. I was in discharge of my duties at the hospital in Cuthbert, Ga., over one month, and respectfully submit my claim for services, in obedience to orders, to the consideration of the United States Surgeon-General.

Very respectfully, your obedient servant,

C. W. CROZIER,
Knoxville, Tenn.

Enclosed affidavit with exhibits attached for your respectful consideration.

Very respectfully, your obedient servant

C. W. CROZIER, *M. D.*

EXHIBIT 4.

WAR DEPARTMENT,
SURGEON-GENERAL'S OFFICE,
Washington, D. C., Jan. 6th, 1872.

SIR: Your communication of December 26th, and accompanying papers, have been received.

It would seem that during the late war you were in the Confederate service, and that in some way, not clearly understood, you were in May, 1865, placed in charge of certain hospitals, or sick and wounded of the United States armies at Cuthbert, Ga., and remained for some time in such charge.

The Surgeon-General instructs me to say that, while he has no disposition to contest your claim to equitable compensation for services rendered, yet the case is of such an exceptional character, and the particulars so imperfectly established, that he does not consider himself authorized to take any action upon it.

It would seem to be a proper subject for the consideration of the Southern Claims Commission, which was appointed by authority of Congress, and holds its sessions in this city.

Very respectfully, your ob't servant,

J. S. BILLINGS,
Asst Surgeon, U. S. Army.

Dr. C. W. CROZIER,
Knoxville, Tenn.

EXHIBIT 5.

KNOXVILLE, TENN., Jan'y 15, '72.

HON. J. M. BROADHEAD,
2d Comptroller U. S. Treasury, Washington City, D. C.

DEAR SIR: I herewith enclose papers relating to my services as surgeon at hospitals at Cuthbert, Ga., and subsequent order for transportation for myself and family—8 persons, including myself—from Cuthbert, Ga., to Clarksville, Tenn. Received same to Chattanooga, Tenn., but from thence to Clarksville (distance 200 miles) I did not receive transportation as called for in the order. I received for myself to Nashville, thus leaving transportation for my family of 7 persons, 200 miles. Same for myself from Nashville to Clarksville, 50 miles. I would state to the Hon. 2d Comptroller that the enclosed papers were submitted to the Surgeon-Gen'l for consideration, and was returned with the enclosed letter from that office. It is respectfully submitted whether the transportation, or its equivalent, does not come under recent ruling by your office relating to vouchers—that is, of disloyal persons. True, I was a rebel surgeon (non-combatant), but after the surrender I received my parole at Macon, Ga., and was detailed and ordered to duty in hospitals at Cuthbert, having the entire charge of the two hospitals, and performing the services required of me; and having been on this duty from May 18th to June 18th, I received nothing except the order for transportation, which was only paid in part. The question now arises, and is respectfully submitted to the Hon. 2d Comptroller, whether or not the order for transportation is not in the nature of a voucher, and if so, does not your decision relating to vouchers cover the case? Again, the Government employing me, knowing my position before employing me, no act in hostility being committed after said employment, am I not entitled to compensation for services rendered, by virtue of that employment?

All of which is respectfully submitted to the consideration of the Hon. 2d Comptroller.

Very respectfully, your obedient servant,

C. W. CROZIER, M. D.

HON. J. M. BROADHEAD,
2d Comptroller Treas., Washington, D. C.

Respectfully returned to C. W. Crozier, M. D., Knoxville, Tenn.

Under the circumstances as narrated by you, the accuracy of which I do not doubt, there is no authority in the accounting officers to grant you relief.

J. M. BROADHEAD,
Comptroller.

2 COMP'S OFFICE, Jan. 18, '72.

EXHIBIT 6.

KNOXVILLE, TENN., Jan'y 31, '78.

DEAR SIR: The inclosed affidavit and exhibits were forwarded to the Surgeon-Gen'l in Washington for his inspection and consideration. They were returned to me. It is presumed there would have been no other obstacle in the way of payment if I had been loyal—I was a non-combatant, in the Confederate service as a surgeon in the army. And after the surrender upon going up to Macon to get my parole, which I received, I met with the United States medical director. He very kindly gave me a written permit to make my quarters for the night at the hospital. Some time in the night after retiring to bed at the hospital I was aroused up and was handed the appointment to take charge of the two hospitals at Cuthbert, Ga., and with instructions to forward all the sick and wounded who could bear transportation to Macon. This office I did not seek, nor did I desire it, knowing the responsibility and onerous duties, but I had no opportunity of seeing the medical director or Major Wilson before early in the morning, when the hour for my departure on the train. In the discharge of these duties it devolved upon me to procure wagons to convey some of the sick and wounded and their baggage to the depot, one mile distant. The U. S. Government furnished no means for this purpose. I had to ask the good citizens of Cuthbert to loan me wagons to carry out the instructions I had received. And after discharging all my duties agreeable to instructions, and disposing of all the men, except six or eight who could not bear transportation, my two daughters procured places for these in Cuthbert among their kind friends and acquaintances, and at no expense to the Government. I think that receiving the appointment in the manner explained, and having rendered the services required, I am justly entitled to compensation for the same without reference to my position in the Confederate service. I respectfully submit the inclosed papers for your inspection, and would be very much obliged to you to get a reconsideration of the same. When Mr. Maynard was in Congress he suggested to have it bro't before Congress. This has not been done. I had hoped that it could be paid without this proceeding. The account would stand as below.

Yours, very respectfully,

C. W. CROZIER, M. D.

Hon. JAMES BAILEY, M. C.,
Washington City, D. C.

U. S. Government to C. W. Crozier, M. D., surgeon in charge of hospitals at Cuthbert, Ga.,

From May 16th to June 16th, 1878. To transportation for 7 persons from Chattanooga to Nashville, 150 miles. To transportation for 8 persons from Nashville to Clarksville, 50 miles. To interest on the amt. from 1865.

EXHIBIT 7.

TREASURY DEPARTMENT,
SECOND AUDITOR'S OFFICE,
Washington, D. C., January 24, 1888.

SIR: Replying to your inquiry as to why a claim of Dr. C. W. Crozier, referred to you as a member of the Senate Military Committee, can not be paid without Congressional legislation, I have the honor to say that I know of no law under which such a claim could be entertained by the Treasury Department.

The claim is for compensation for services as surgeon in charge of hospitals at Cuthbert, Ga., from May 16 to June 16, 1865; for transportation of seven persons from Chattanooga to Nashville; and for eight persons from Nashville to Clarksville; also interest on the amount from 1865. The facts in the case appear to be that Dr. Crozier served in the Confederate Army, and in May, 1865, after the war had virtually closed, while on his way home to Clarksville, Tenn., he was instructed by the medical director of the Cavalry Corps, Military Division of the Mississippi, to perform certain duties connected with the medical department at Cuthbert, Ga. After performing those duties he received an order for the transportation of himself and family (eight persons) to Clarksville, Tenn. But transportation was not actually furnished except to himself. In December, 1871, six and a half years after the transaction, he applied to the Surgeon-General of the Army for compensation, without specifying any amount. The Surgeon-General replied that while he had no disposition to contest the claim to equitable compensation for services rendered, yet the case was of such an exceptional character, and the particulars so imperfectly

established, that he did not consider himself authorized to take any action upon it. Thereupon Dr. Crozier submitted his case to the Second Comptroller, who returned the papers with the following indorsement: "Under the circumstances as narrated by you—the accuracy of which I do not doubt—there is no authority in the accounting officers to grant you relief. Second Comptroller's Office, Jan. 18, 1872."

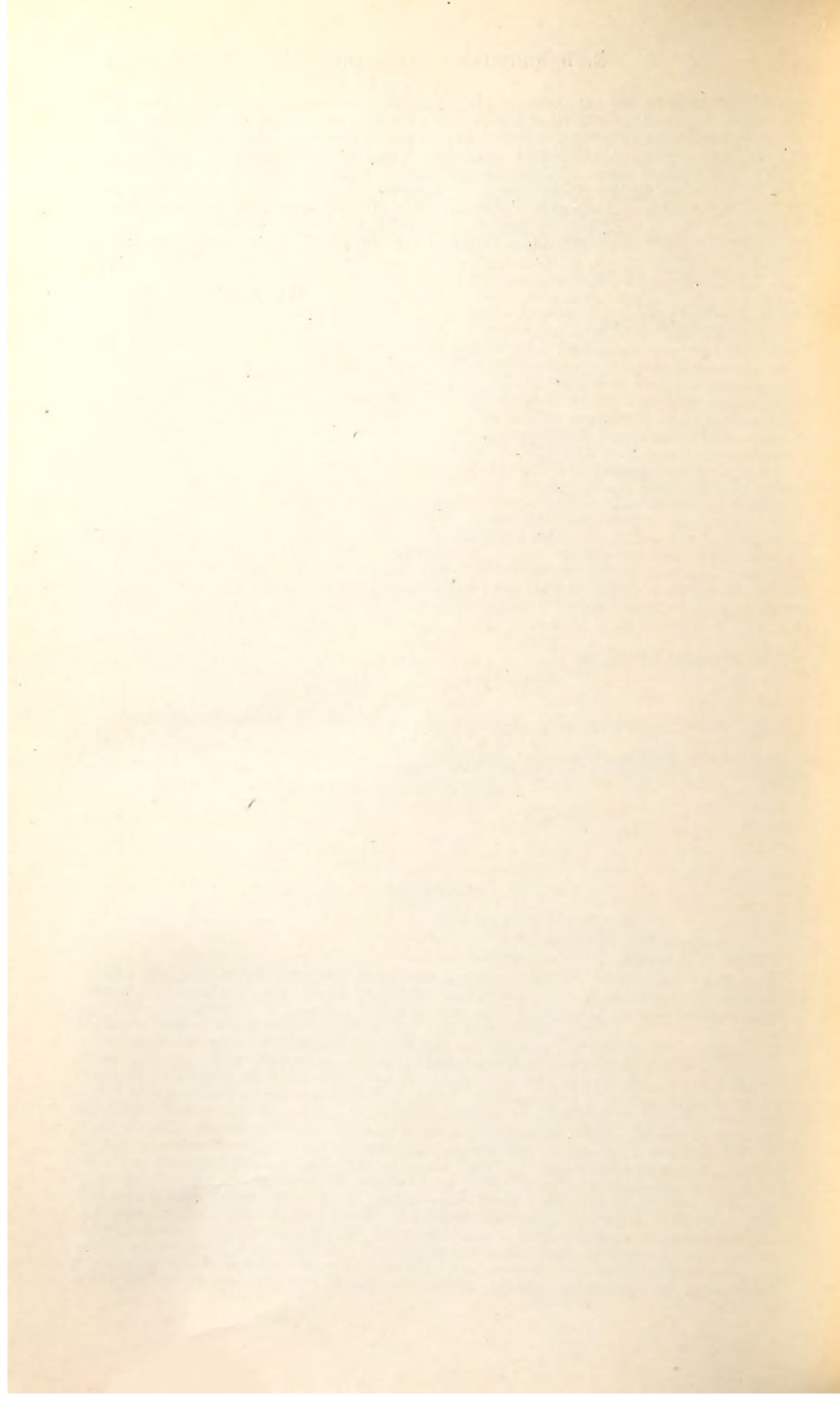
No further steps appear to have been taken until January, 1878, when Dr. Crozier referred the matter to Hon. James Bailey, M. C. The papers do not show whether Mr. Bailey took any action in the matter or not. Under the circumstances it appears to me that Congress alone can afford relief to the claimant's estate. All papers are herewith returned.

Respectfully, yours,

WM. A. DAY, *Auditor.*

Hon. W. B. BATE,
United States Senate.

O



TRUSTEES OF TUSCARORA LODGE, I. O. O. F., OF MARTINS-
BURG, W. VA.

FEBRUARY 28, 1896.—Committed to the Committee of the Whole House and ordered
to be printed.

Mr. PUGH, from the Committee on War Claims, submitted the fol-
lowing

REPORT:

[To accompany H. R. 1805.]

The Committee on War Claims, to whom was referred the bill (H. R. 1805) for the relief of the trustees of Tuscarora Lodge Independent Order of Odd Fellows, of Martinsburg, W. Va., respectfully report:

This is a claim of the trustees of Tuscarora Lodge Independent Order of Odd Fellows, of Martinsburg, W. Va., for rent of building and repairs to same, by the military forces of the United States during the late war, stated at \$2,500.

It was presented to the Third Auditor of the Treasury, June 2, 1874, and was disallowed by that officer February 27, 1880, on the ground that he was forbidden by section 300 B, Revised Statutes of the United States, from taking jurisdiction of claims for rent of real estate in a State declared in insurrection during the war of the rebellion.

The claim was referred to the Court of Claims August 27, 1890, for consideration under act of Congress approved March 3, 1883, called the Bowman Act, and on a trial upon the preliminary question of loyalty the corporation was found loyal June 6, 1892. The case was called for trial on its merits April 3, 1893, and was dismissed by the court upon the ground that it was without jurisdiction to find the facts.

The evidence shows that the lodge building was first occupied by the United States about the 1st of July, 1861, and was continuously occupied, except at brief intervals when the Confederates held the town, until the close of the war, a period of three and one-half years, being used by the Quartermaster and Commissary Departments. The value of the building is shown to have been \$4,500, and its rental value from \$40 to \$50 per month. During this occupancy the buildings were injured, carpet rendered useless, chairs used or destroyed, and curtains worn out or destroyed, rendering necessary repairs which cost \$615.

The claim seems to be equitable and just, and the trustees of this lodge entitled to relief, and upon a consideration of the whole evidence it would seem fair to allow for three years' rent at \$40 per month, and repairs, \$615; total, \$2,055.

Your committee therefore report the bill back to the House and recommend its passage.

CELESTIA R. BARRY.

FEBRUARY 28, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BLACK, of Georgia, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 1891.]

The Committee on Pensions, to whom was referred the bill (H. R. 1891) granting a pension to Celestia R. Barry, have considered the same and respectfully report as follows:

The claimant is the widow of Claudius C. Barry, late a private of Captain Conner's Company of Texas Mounted Volunteers in the war with Mexico. The records of the War Department show that he enlisted May 5, 1848, and was discharged with the company December 31, 1848. The rolls further show that the regiment was called into service for the protection of the frontier against hostile Mexicans and Indians, and it is also shown that casualties occurred in the regiment December 1, 1848, at Brazos River, and December 30, 1848, at Austin, Tex.

The soldier was allowed a pension under the Mexican war act of January 29, 1887, but when his widow made application after his death (which occurred May 4, 1894) the rulings of the Pension Bureau had changed, and her claim was rejected "on the ground that the soldier did not serve the requisite sixty days in the war with Mexico, as said war closed May 30, 1848."

Mrs. Barry is now 56 years old, and the testimony filed at the Pension Bureau fully establishes her widowhood and that she has no property or income, but is dependent upon others for support. It is also shown that she is so disabled by rheumatism as to incapacitate her from earning a maintenance by her own labor.

The soldier's service, notwithstanding the fact that the Pension Bureau holds that the Mexican war ended May 30, 1848, was of an arduous and dangerous character and extended far beyond the date named. As stated above, casualties occurred in the regiment as long as six months subsequent to May 30, 1848.

Your committee believe that the claimant is deserving of relief, and the passage of the bill is therefore recommended with an amendment striking out the word "twelve," in line 8, and substituting therefor the word "eight," so as to allow a pension of \$8 per month.

LYDIA BOYNTON FERRIS.

FEBRUARY 28, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HOWE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 1511.]

The Committee on Pensions, to whom was referred the bill (H. R. 1511) granting a pension to Lydia Boynton Ferris, have considered the same and respectfully report as follows:

The claimant is the daughter of John Boynton, who served as a corporal in Capt. Joseph Morrill's company of Vermont Volunteers from September 12 to November 30, 1812, in the war of that year with Great Britain. It is also shown that she is the granddaughter of Isaac Boynton, who is shown by the records of the War Department to have served for a period of three years in the war of the Revolution. John Boynton, the claimant's father, was, at the time of his death, a pensioner at \$8 per month, on account of his service in the war of 1812.

Her relationship to the above-named soldiers is shown by the sworn statements of James Owens, Alonzo L. Boynton, Laura Hayes, M. L. Staib, Minnie Miller, and Sophia B. Frary.

The claimant swears that she is 63 years old, a resident of 287 Normal avenue, Buffalo, N. Y., and that she is the widow of Joshua C. Ferris, who died in 1882, leaving her comparatively penniless. She further swears that by the accidental breaking of her arm in 1884 she has been rendered permanently unable to provide for herself, and that she is now without any means of support whatever.

The truthfulness of the claimant's statement is certified to by B. W. Green, of Emporium, Pa., in a letter addressed January 12, 1895, to Hon. Charles Daniels, M. C.

The soldier, in his application for pension, certified that his wife (the claimant's mother) was deceased.

There are precedents for the proposed legislation (one of them being the case of Delia Stewart Parnell pensioned in the Fifty-first Congress as the daughter of an officer in the war of 1812), and in view of the claimant's necessities the passage of the bill is recommended, with an amendment fixing the rate of pension at \$12 per month.

KATHERINE ZEIGENHEIM.

FEBRUARY 28, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COLSON, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 2359.]

The Committee on Pensions, to whom was referred the bill (H. R. 2359) granting a pension to Katherine Zeigenheim, have considered the same and respectfully report as follows:

The claimant is the widow of Francis J. Ziegenheim, who served from May 16, 1848, to July 14, 1848 (a period of sixty days), as an unassigned recruit in the Third United States Dragoons. The records of the War Department show that he enlisted at Louisville, Ky., for the Mexican war and was forwarded to Jefferson Barracks, Mo., where he remained on post duty until discharged.

The soldier made application for a pension under the Mexican war act approved January 29, 1887, and the same was allowed, but after his death (which occurred January 5, 1892) his widow's claim was rejected because he did not serve in Mexico, on the coast or frontier thereof, or en route thereto, as required by the act in question.

The claimant is now about 61 years old, in poor health, and without any means of support aside from what she earns as a janitress of a furniture store. These facts are sworn to by the claimant and by Sebastian Wetterer and Edward Duerr, citizens of Louisville, Ky. Her status as the soldier's widow is fully established by the proof on file at the Pension Bureau.

In view of the fact that the soldier enlisted in good faith for service in the war with Mexico and was actually en route thereto until assigned to other duty at St. Louis, your committee believe that Congress can very properly grant the relief prayed for, and the passage of the bill is therefore recommended.

Amend by changing the spelling of soldier's Christian name to "Francis."

NANCY B. PRINCE.

FEBRUARY 28, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STALLINGS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 1827.]

The Committee on Pensions, to whom was referred the bill (H. R. 1827) granting a pension to Nancy B. Prince, have considered the same and respectfully report as follows:

The claimant is the widow of Elbert Prince, who served as a private in Captain Christmas's company of Georgia Volunteers in the Creek Indian war of 1836. It is declared that his service covered a period of two months, but the rolls of the company on file at the Treasury Department show service from May 21, 1836, to June 7, 1836, a period of but eighteen days. The rolls, however, fail to show that any allowance was made for travel, and nothing can be found of record concerning his service in Captain Spivey's company, which is said to be the organization in which he originally enlisted.

Elbert Prince died December 13, 1875, and his widow is now about 86 years old, without property, and dependent upon others for her support. The facts as to her age and dependence are sworn to by R. M. Bean, H. C. Johnson, and Eden Phillips, citizens of Lee County, Ala.

The passage of the bill is respectfully recommended.



HENRY PRINCE.

FEBRUARY 28, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STALLINGS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 1826.]

The Committee on Pensions, to whom was referred the bill (H. R. 1826) granting a pension to Henry Prince, beg leave to submit the following report:

The claimant declares that he enlisted about May 1, 1836, and served until the last of June, 1836, as a private in Captain Christmas's company of Georgia Volunteers in the Creek Indian war, and his allegations as to length of service are borne out by the sworn statements of Linson Pickard and John H. Blalock, aged residents of Lee County, Ala., who knew him at the time of his service.

The records, however, fail to show the service except from May 21, 1836, to June 7, 1836; and it further appears that no travel-time allowance is included within that period. His claim, under the Indian war act of July 27, 1892, was disallowed because of inability to find a record except of eighteen days' service.

The claimant is now 80 years old, in feeble health, and without property or income upon which to depend for a support. The facts are shown by the certificate of the gentleman who introduced the bill in the House, and also by the sworn statement of three residents of Lee County, Ala.

The passage of the bill is respectfully recommended.



SEN. JAMES C. PARROTT.

FEBRUARY 28, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BAKER, of Kansas, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 5226.]

The Committee on Invalid Pensions have examined the bill (H. R. 5226) to pension James C. Parrott, late lieutenant-colonel commanding the Seventh Iowa Infantry, and recommend that the same do pass with an amendment changing the rate of pension asked for therein from \$72 a month to \$50 a month.

This is a meritorious case. James C. Parrott is 85 years old. When a young man he enlisted in the cavalry service of the United States Army and was for many years a faithful and good soldier in the Western service when the Mississippi River was the line of the frontier. He had retired from the Army and was engaged in business in civil life at the outbreak of the war of 1861-65. He was past the age of military service, but he enlisted July 12, 1861, and was elected captain of Company E, Seventh Iowa Infantry. The regiment moved almost immediately to the front and had its first engagement at the battle of Belmont, where Captain Parrott distinguished himself for courage, coolness, bravery, and fitness for command, and a familiarity with army service acquired while he was in the Regular Army. He was wounded quite severely in that battle, but had attracted the favorable attention of General Grant, who wrote him a personal and autograph letter of approval, requesting him not to remain in the hospital but to go home until he should have recovered from his wounds. He made him lieutenant-colonel of the regiment, which placed him in command, as there was no other colonel of that regiment from that time until the close of the war, Colonel Parrott acting as colonel throughout.

Before the attack upon Fort Henry Colonel Parrott had sufficiently recovered to return to the front, and was in command of the regiment at Fort Henry and in the battle of Donelson, where he led his regiment as a part of the assaulting body making the famous charge which took the work. He was in the battle at Shiloh, commanding his regiment, and in the battle of Corinth, where, on the 4th of October, 1862, he was again wounded. In July, 1864, in the engagements before Atlanta, the continuous exposure and the effects of his previous wounds brought on a rheumatism from which he never recovered fully, and from which time he had to go to the hospital and was given a sick leave. He returned from that furlough, however, and commanded his regiment in the march to the sea, and was finally mustered out at the expiration of the war. He was given a pension to date from July

13, 1865, at the rate of \$25 per month. There has been no increase from that time, although there has been continuous and growing disability. As the years advanced the effects of his army service have continuously increased upon him, taking the form of paralysis and rheumatism and a prostration of his physical powers.

Dr. H. A. Kinnaman, a physician of credit and repute, testified upon twenty-three years of acquaintance and many years as his practicing physician and the general conditions we have stated. He said that Colonel Parrott's disabilities were permanent and preclude him from all forms of manual labor. Dr. J. M. Schafer, another physician of repute, and a member of the board of examining surgeons, testified to the same thing. Dr. A. Weismann, another physician of repute, and also a member of the board of examining surgeons, testified the same thing. The last medical examination was made October 23, 1895, by Dr. George P. Neal, president; Dr. H. A. Kinnaman, and Dr. Robert M. Lapsley, and in their report, which the committee has examined, they reported: "General appearance unfavorable; nutrition impaired; emaciated; scars indicating gunshot wound of the right shoulder; ball entered 1 inch below and a little posterior to the apex of the acromion and emerged $1\frac{1}{2}$ inches below the coracoid process of the scapula," etc.; scars indicating "a gunshot wound of the neck; ball entered immediately over second dorsal vertebra and emerged 1 inch above and 1 inch posterior to sternal end to the left clavicle; a slight lateral curvature of the spine from a ball; grazed his back. Claimant is very weak in the back and knees; in our opinion may be the result of the injuries caused by the gunshot wound of the neck and back."

All of these surgeons have united in recommending an increase of Colonel Parrott's pension. He is very poor, and yet a veteran of long army service that was of the utmost usefulness to his country. He has had to make the pathetic statement to the Department of Pensions and to this committee that he is in absolute need.

The committee unanimously and cordially concur in asking of the House a favorable consideration of this bill, and when amended by striking out in line 6 the words "in the war of eighteen hundred and sixty-one," and by striking out in line 7 the word "seventy-two" and in place of "seventy-two" inserting the word "fifty," recommend that it do pass.



USE BY UNITED STATES OF DEVICES COVERED BY LET-
TERS PATENT ISSUED TO NAVAL OFFICERS.

FEBRUARY 28, 1896.—Referred to the House Calendar and ordered to be printed.

Mr. FAIRCHILD, from the Committee on Patents, submitted the fol-
lowing

REPORT:

[To accompany H. R. 4178.]

The Committee on Patents, to whom was referred the bill (H. R. 4178) providing for the use by the United States of devices covered by letters patent which may be hereafter issued to any officer of the Navy, have examined the same and report as follows:

The evils sought to be remedied by this bill, and the arguments in support thereof, are referred to by the Secretary of the Navy in his annual report to Congress as follows:

Inventions useful to the naval service are frequently patented by officers of the Navy. Officers have peculiar opportunities in the line of their duty for discovering the defects of naval appliances and devising remedies for the same. When they have been especially assigned to the duty of making experiments for the purpose of suggesting improvements in some particular direction, if the facilities for conducting the experiments have been furnished by the Department, and the expenses, including the procuring of patents, have been borne by the Department, the improvements or devices are the property of the United States.

When, however, an officer is not acting under authority of the Department, and the invention does not concern a matter the officer was especially assigned the duty of investigating, and when the expenses of making experiments and procuring the letters patent are borne by the officer, it has been held that the patent is the property of the officer, and is valid as against the Government itself. In order to use these devices the United States must obtain the consent of the patentee and pay him such price for the use of the same as he may demand, and it has frequently been found difficult to adjust the rights of officers as against the Government in these cases.

The inventive genius of officers should not be suppressed, nor should they be unjustly deprived of the fruits of their labor, but, on the other hand, there ought to be no extraordinary pecuniary stimulus to turn to their own advantage knowledge acquired at the expense of the Government and tending to promote the interests of the service in which they are employed. Such a stimulus exists where the Government must do without improvements essential to its naval power or pay to persons whom it has educated and furnished the opportunities for developing such improvements such prices as they may insist upon for the same.

The British Government has recently found it expedient to prescribe the terms under which its navy shall acquire the use of inventions patented by persons in its naval service, and the following provisions appear to me to be particularly equitable and just: "The invention may be used by or for Her Majesty's service, and that the terms of payment, if any, shall be decided by the Admiralty," and "in settling terms, either for assignment or use, regard will be had by the Admiralty to any facilities in originating, working out, and perfecting the invention which the inventor may have enjoyed by reason of his official position."

As naval officers receive their education at the expense of the Government, and their opportunities to make improvements in naval appliances result largely from such education and the facilities afforded them by the duties they perform under the

Government, I have the honor to recommend that Congress be asked to enact legislation providing that the United States may at any time acquire the right to use devices covered by letters patent issued to officers of the Navy, whether retained in their ownership or assigned to others, upon such terms and at such rate of compensation as may, by the Secretary of the Navy, be deemed just and equitable. (Annual Report of the Secretary of the Navy, 1895, pp. 48, 49.)

Similar references were made in the report of the Judge-Advocate-General to the Secretary of the Navy for the year 1895 (pp. 16 and 17).

It is to carry out the recommendation made by the Secretary of the Navy to Congress, above quoted, that this bill was introduced.

In view of the evident existence of the evils referred to in the above quotation from the report of the Secretary of the Navy, your committee recommend the passage of the bill with the following amendments:

Insert after the words "covered by letters patent," in line 5, "which may be hereafter;" and after the words "compensation, as may," in line 9, insert the words "be determined to be just and equitable by a board of not less than three naval officers, appointed for the purpose by;" and after the words "with the public service," in line 15, insert the words "and the decision of said board shall be subject to approval by the Secretary of the Navy;" strike out after the words "compensation, as may," in line 9, the word "to;" and after the word "Navy," in line 9, strike out, in lines 9 and 10, the words "seem just and equitable;" and after the words "will be had," in line 12, strike out the words, in lines 12 and 13, "by the Secretary of the Navy."



CAROLINE E. PURDUM.

FEBRUARY 28, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ANDREWS, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 6134.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6134) granting an increase of pension to Caroline E. Purdum, have considered the same and report as follows:

Five different pension certificates were issued to the soldier because of disease contracted in the service.

One of the disabilities mentioned in his last certificate was "disease of heart," for which disability he was rated at eight-eighteenths.

After the soldier's death his widow, the said Caroline E. Purdum, applied for a pension under the general law.

The declaration alleged that the soldier's death resulted from "heart disease."

The claim was approved by the medical examiner in the Pension Office and submitted for admission by the present "medical referee."

The re-reviewer raised some question of doubt, and a special examination was subsequently ordered.

In the course of that special examination Dr. B. B. Baker, who had been the soldier's advisory physician for several years and was his attending physician during his final illness, testified that "the immediate cause of his death was chronic valvular disease of the heart."

The report of the special examiner concludes with the following statement:

I think the claim could be fairly admitted under the positive medical testimony of Dr. B. B. Baker that the heart disease was undoubtedly due to the typhoid fever and its resulting disease of the circulatory system.

Nevertheless, the claim was rejected. But the facts cited, which are corroborated by other testimony, lead your committee to believe that the widow is clearly entitled to a pension under the general law, and we therefore recommend that the bill do pass.

THE HISTORY OF THE

REVOLUTION

The Revolution of 1789 was a turning point in the history of France. It was a time of great change and upheaval. The people of France rose up against the monarchy and the aristocracy. They demanded a new form of government. They wanted a government that would represent the people. They wanted a government that would be based on the principles of liberty, equality, and fraternity. The Revolution was a struggle for power. It was a struggle between the people and the old ruling class. It was a struggle for the soul of France. The Revolution was a time of great heroism and sacrifice. It was a time when the people of France gave up everything for their country. It was a time when the people of France fought for their freedom. The Revolution was a time of great change and upheaval. It was a time when the people of France rose up against the monarchy and the aristocracy. They demanded a new form of government. They wanted a government that would represent the people. They wanted a government that would be based on the principles of liberty, equality, and fraternity. The Revolution was a struggle for power. It was a struggle between the people and the old ruling class. It was a struggle for the soul of France. The Revolution was a time of great heroism and sacrifice. It was a time when the people of France gave up everything for their country. It was a time when the people of France fought for their freedom.

FRANCES E. HELFENSTEIN.

FEBRUARY 28, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. KERR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 979.]

The Committee on Pensions, to whom was referred the bill (H. R. 979) granting a pension to Frances E. Helfenstein, widow of George W. Helfenstein, late first lieutenant and adjutant of the One hundred and seventy-third Ohio Volunteer Infantry, have examined the same, and report:

The claimant is the widow of George W. Helfenstein, who was first lieutenant of Company D, One hundred and seventy-third Ohio Volunteer Infantry, and afterwards adjutant of the same regiment. The soldier entered the service August 10, 1864, for one year. He was appointed first lieutenant of Company D, One hundred and seventy-third Ohio Volunteer Infantry, September 17, 1864, and adjutant of the same regiment December 21, 1864. He was discharged May 30, 1865, for disability, the regiment itself being mustered out June 26, 1865. He was married January 28, 1863, to Frances E. Spry, and she, as his widow, now prosecutes this claim.

The evidence in the case is voluminous, but the main facts are as follows:

In the service about October, 1864, the officer was sent out on a long detail, or scout, in which he rode horseback. In that time he bruised his scrotum and caught cold. When he returned to camp his scrotum was swollen and painful, and a case of orchitis or sarcocele was set up. He was sent to the officers' hospital at Nashville, Tenn., treated for it, and returned to the regiment. There was a recurrence of the disease, and he was returned to the hospital, where his right testicle was extirpated. He was granted sick leave, and sent home in March, 1865.

He returned to the regiment, but on May 30, 1865, he was again found in the hospital and was discharged, as of that date, by virtue of a general order discharging all officers in hospital at that date.

The soldier applied for pension, on account of the disability arising in the service, in March, 1879, and was allowed for \$8.50, dating from January 5, 1882.

He applied for an increase of pension and was allowed it to the amount of \$12.75, October 7, 1887, which he was receiving on June 5, 1892, the date of his death.

In August, 1892, Frances E. Helfenstein, the widow, applied for pension on the ground that the soldier died of the disability, on account of which he was pensioned.

On September 10, 1894, the claim was rejected on the ground that the soldier's death was not the result of the disability originating in the service.

The whole case turns upon this one point. There is no doubt but that the soldier received the disability in the service, and was pensioned for it, and that claimant is the widow, and the only question is, Did the soldier die of the disability received in the service?

Upon this point there are five medical witnesses. Dr. Morris, late first assistant surgeon of the One hundred and seventy-third Ohio Volunteer Infantry, and Dr. F. B. Mussey, both of whom treated the soldier in the service for the disability incurred there, the latter physician treating him on down until 1881. Then there are Drs. Fulton, McClure, and Halderman, who treated the soldier from 1881 until his death.

Each physician states his own knowledge of the case, and then gives his opinion on his own evidence, and on that of the other four. All of these physicians stand high in their profession. All arrive at the same conclusion, namely, that the disease of which the soldier died are traceable to the sarcocele which originated in the service and on account of which he was pensioned.

The Pension Office physicians refuse to draw these conclusions from the evidence of the five physicians, and say that the soldier did not die of the disease on account of which he was pensioned. If this case had been submitted to a court on the evidence of the five physicians, and the court had been bound to accept their evidence as experts, then it would have been bound to have allowed the pension, for their evidence establishes the right to a pension.

Your committee think that this evidence was competent, and that when given the Department was bound to receive it, and to follow what it proved. We do not believe that the medical staff of the Department can or should arbitrarily say that they will not accept as proven what the evidence clearly proves.

The facts in the case warrant the allowance of a pension, and we therefore recommend the passage of the bill with an amendment adding to line 8, after the word "Infantry," the words "at the rate of seventeen dollars per month."



ABRAM H. PARKER.

FEBRUARY 28, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ANDERSON, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 5946.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5946) granting an increase of pension to Abram H. Parker, late of Company A, Forty-fifth Kentucky Mounted Infantry, to \$50 per month, having examined and considered the evidence before us, respectfully submit the following report:

Abram H. Parker enlisted as a private of Company A of the Forty-fifth Kentucky Mounted Infantry Volunteers July 6, 1863, and served faithfully until honorably discharged by reason of expiration of term of service, December 24, 1864.

He is pensioned under the act of June 27, 1890, at \$12 per month since September 25, 1892, certificate No. 810459, for "rheumatism, disease of heart, and nervous debility."

The applicant attributes said disabilities to his army service, as well as resulting spinal trouble, paralysis of entire right side, complete aphonia, and enlargement of spleen; but owing to lapse of time, the separation and death of comrades having knowledge of the facts, as well as his impoverished condition and expenses incurred in trying to relieve his afflictions, he alleges incapacity to furnish satisfactory proof tracing his numerous physical ailments to the service, according to the rules and practice in vogue in the Pension Bureau.

Dr. William Bowman, a reputable and skilled physician, testifies to treating claimant in the summer of 1871 for rheumatism and well-defined heart complications, and from time to time since then, and he and four other reputable physicians testify to his physical condition for the last few years, and report him suffering from rheumatism of all joints and muscles; hypertrophy of heart, the result of rheumatism; enlargement and tenderness of spleen, nervous irritability, swelling of lower extremities, abdomen, and face, with cyanosis and dyspnoea; general œdema and paralysis of arm and leg, rendering him unable to walk without crutches or to take off or put on his clothes; that he has complete paralysis of the vocal cords, being unable to speak at all, and as a result of nervous derangement has cystitis, and his mind has become impaired so that he is in constant dread, and that his condition is such as not only to totally incapacitate him from the performance of any kind of manual labor, but also to require the constant aid and attention of another person.

Your committee believe this old veteran an object of pity, being without adequate means of support, and earnestly recommend the passage of the bill.

ESTATE OF RICHARD HIGGINS.

FEBRUARY 28, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. NEILL, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. Res. 183.]

The Committee on War Claims, to whom was referred the bill (H. R. 1571) for the relief of the estate of Richard Higgins, submit the following report:

This is a claim for stores and supplies furnished the Army of the United States during the late war by Richard Higgins, now deceased, late of Phillips County, Ark. Claim stated at \$65,000.

This claim was not prosecuted before the Southern Claims Commission as required by the act of March 3, 1871, for the reason that Mr. Higgins died in April, 1862, leaving infant heirs, who were not financially able to incur the enormous expense of taking witnesses to the city of Washington to testify orally before the said Commission, as required by law.

The claim has been pending before Congress since 1867, and it seems to your committee that an investigation by the Court of Claims is necessary before intelligent action can be had upon this claim, and your committee report herewith a resolution referring the claim to the Court of Claims for a finding of facts under the provisions of the "Tucker Act," and recommend its passage.



BRIDGE ACROSS THE MISSISSIPPI RIVER, AITKIN COUNTY,
MINN.

FEBRUARY 28, 1896.—Committed to the Committee of the Whole House on the state
of the Union and ordered to be printed.

Mr. FLETCHER, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. R. 6250.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 6250) to authorize the construction of a bridge across the Mississippi River in the county of Aitkin, State of Minnesota, submit the following report:

There is great need of a bridge at the point named in the bill, to accomodate the rapidly growing business and travel of this region. Heretofore, until recently, the lumber industry has practically monopolized the activities of the people of Aitkin County and the adjoining territory on the Upper Mississippi, but of late there has been an extraordinary development in agriculture and a corresponding growth in pursuits dependent to a large degree upon that industry. The soil has been found to be of exceeding fertility in Aitkin County, and a very large farming population has settled upon lands on the side of the river opposite to the village of Aitkin, where it is proposed to build this bridge.

The population of the village in 1890 was 737, and by 1895, as shown by the State census just published, it had become a thriving community of 1,670 souls. It is a well-built and energetic town, and will unquestionably continue to grow for a long time to come in much the same ratio. The population of the county has in the same interval increased from 2,462 to 5,224, or more than 100 per cent. The bridge has really become an absolute necessity to these people, and they have provided the money for a substantial and appropriate structure, upon a plan that has received the approval of the Secretary of War, and are now ready to proceed with the building of the bridge.

Your committee recommend that the bill do pass, with the following amendment, viz:

Strike out, in section 4, line 28, the word "Congress," and insert in place thereof "the Secretary of War."

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MARY PRINCE.

FEBRUARY 29, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STALLINGS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 1825.]

The Committee on Pensions, to whom was referred the bill (H. R. 1825) entitled "A bill granting a pension to Mary Prince, widow of Ellis Prince," beg leave to submit the following report, and recommend that said bill do pass:

This is a bill enacting that Mary Prince be granted a pension because of the service of her deceased husband, Ellis Prince, in Captains Christmas's and Spirey's companies of Georgia Volunteers in the Indian war of 1836.

Such rolls as are on file show that Ellis Prince served from May 31 to June 7, 1836, in Captain Christmas's company, but no allowance was made on account of time spent in travel. No rolls of Captain Spirey's company can be found, but parole evidence is furnished to show that the soldier's service covered a period of nearly sixty days.

The claimant's application at the Pension Bureau under the Indian war act of July 27, 1892, was disallowed because of inability to find a record of more than the eighteen days of service appearing on the above-named roll.

Ellis Prince died November 1, 1874, and his widow, who is now about 76 years old, is in a very needy and dependent condition.

The facts as to dependence are shown by the statement of the gentleman who introduced the bill in the House, and by the affidavits of three citizens of Lee County, Ala.

JAMES J. McDONALD, CONTESTANT, AGAINST WILLIAM A.
JONES, CONTESTEE.

FEBRUARY 28, 1896.—Ordered to be printed.

Mr. TURNER, from the Committee on Elections, No. 1, submitted the
following

REPORT:

[To accompany House Res. No. 185.]

The Committee on Elections, No. 1, have fully considered the application of James J. McDonald for leave to serve notice of contest, and to contest the election of William A. Jones, as Representative in Congress for the First Congressional district of the State of Virginia, and have listened attentively to the arguments of the counsel for the respective parties and to the proofs produced by them, and respectfully report:

That with reasonable diligence the notice of contest could have been served within the time prescribed for that purpose by the act of Congress in such case made.

And we are further convinced by the proofs produced before us on the hearing of the said application, and report that there is no substantial ground in fact for the proposed contest, and the same could not be successfully maintained if it should be allowed to be made.

It also appeared that the said James J. McDonald, at the time of the election in 1894, and prior to and since that time, was engaged in business and resided with his family in the city of Washington, in the District of Columbia, and that he had no place of business, and no business or residence of any description in the State of Virginia; and the committee is of opinion that he was not an inhabitant of the State of Virginia at or near the time of the election for Representatives in Congress in the First Congressional district of said State in 1894; and that he was not eligible for said office at or near the time of the said election in the year 1894.

Upon these grounds the committee unanimously adopted the resolution:

That the application of the said James J. McDonald for leave to serve a notice of contest of, and to contest, said election should be, and it thereupon was, denied. And the committee respectfully recommend the adoption of the following resolution by the House of Representatives.

All of which is respectfully submitted.

February 25, 1896.

CHAS. DANIELS, *Chairman*.
LEMUEL W. ROYSE.
FRED C. LEONARD.
ROMULUS Z. LINNEY.
WILLIAM H. MOODY.

EDWARD D. COOKE.
HUGH A. DINSMORE.
C. L. BARTLETT.
S. S. TURNER.

Resolved, That the application of James J. McDonald for leave to serve a notice of contest and to contest the election of William A. Jones, as a Representative of the First Congressional district of the State of Virginia in the Fifty-fourth Congress be, and the same hereby is, denied.

FRANCES E. MARSHALL.

FEBRUARY 29, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COLSON, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 4090.]

The Committee on Pensions, to whom was referred the bill (H. R. 4090) granting an increase of pension to Frances E. Marshall, have considered the same, and beg leave to report as follows:

Frances Elizabeth Marshall is the widow of the late Col. Humphrey Marshall, who rendered distinguished service as colonel of the First Kentucky Mounted Volunteers in the war with Mexico. Colonel Marshall died March 26, 1872, and his widow has since been allowed the pension of \$8 a month provided by the Mexican war act of January 29, 1887.

Mrs. Marshall was born December 15, 1814, and is therefore past 81 years of age. She married the soldier January 23, 1833.

The papers accompanying the bill show that the claimant is a confirmed cripple from rheumatism, and stands in much need of an increase in her pension.

The passage of the bill is respectfully recommended with an amendment fixing the rate of pension at \$30 a month.



SARAH WEEDON JONES.

FEBRUARY 29, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HARDY, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 1178.]

The Committee on Pensions, to whom was referred the bill (H. R. 1178) granting a pension to Sarah Weedon, have considered the same, and respectfully report as follows:

The claimant was formerly the widow of John H. Weedon, who served as a sergeant in Company I, Fourth United States Infantry, and as such participated in the war with Mexico.

The exact date of the soldier's death is not known, but the Pension Bureau reports that he was discharged at the City of Mexico November 26, 1847, on a surgeon's certificate of disability, and he directed that his pension certificate should, when issued, be sent to Zanesville, Ohio. This certificate was issued to him in May, 1848, sent to Zanesville and returned uncalled for, and it is now on file in the Pension Bureau.

The testimony filed in the widow's pension application shows that it was understood that he received a wound at Molino del Rey, Mexico, September 8, 1847, and died soon after from the effects of same. The widow remarried to one Enoch Jones, who died September 23, 1891.

The claimant's application at the Pension Bureau, filed January 30, 1890, was rejected March 8, 1890, "on the ground of no pensionable period, application not having been filed within three years subsequent to soldier's death nor prior to remarriage May 13, 1849."

As stated above, the claimant is again a widow, and as shown by her sworn statement, she reared two sons by the soldier, both of whom served through the late war in the Union Army, one of whom died several years ago from the effects of the service and the other is still surviving, though a wounded invalid.

The claimant is now 85 years old, and it is shown by the sworn statement of several citizens of Guernsey County, Ohio, that her sole property consists in a dower interest in a small piece of real estate in North Salem, Ohio, worth not over \$100, and is dependent upon others not legally bound for her support.

The passage of the bill is respectfully recommended, with an amendment changing the title of the bill so as to read "A bill granting a pension to Sarah Weedon Jones;" also by inserting the words "Jones, former," after the words "Sarah Weedon," in line 5, and striking out the word "twenty-five," in line 8, and inserting in lieu thereof the word "eight," so as to fix the rate of pension at \$8 per month.

FEE SYSTEM, UNITED STATES DISTRICT ATTORNEYS AND
MARSHALS.

FEBRUARY 29, 1896.—Ordered to be printed.

Mr. HENDERSON, from the Committee on Rules, submitted the following

REPORT:

[To accompany House Res. No. 182.]

The Committee on Rules, to whom was referred the resolution No. 182, report to the House with the recommendation that the same do pass.

WILLIAM F. ALDRICH v. GASTON A. ROBBINS.

FEBRUARY 29, 1896.—Referred to the House Calendar and ordered to be printed.

Mr. ROYSE, from the Committee on Elections, No. 1, submitted the following as the

VIEWS OF A PORTION OF THE COMMITTEE:

[To accompany House Res. No. 187.]

The Committee on Elections, No. 1, to whom was referred the contested election case of William F. Aldrich against Gaston A. Robbins, from the Fourth Congressional district of Alabama, report that after having heard the argument of counsel for the respective parties, read their briefs, and carefully considered the evidence adduced and questions involved, submit the following:

This district is composed of the following counties, namely: Calhoun, Chilton, Cleburne, Shelby, Talladega, and Dallas.

At the election held therein on the 6th day of November, 1894, Gaston A. Robbins was the Democratic candidate, and William F. Aldrich the Republican.

On the face of the returns, the vote of the district for these candidates was as follows:

Counties.	G. A. Robbins.	W. F. Aldrich.
Calhoun	1,838	1,481
Chilton	320	785
Cleburne.....	562	677
Dallas	5,462	72
Shelby	920	1,631
Talladega.....	1,390	2,110
Total	10,492	6,756

This gave Mr. Robbins a majority of 3,736. A certificate of election was thereupon issued to him by the governor of the State of Alabama, by virtue of which he now holds a seat in this Congress.

By the notice of contest the returns of a large number of the precincts were attached; but the evidence taken only covers 15 precincts in Dallas County, 4 in Calhoun County, and 1 box in precinct No. 4 in Shelby County.

Aside from the consideration of the vote of these precincts, we are called upon to decide—

- (1) Upon the sufficiency of the notice of contest, and
- (2) The power of the notary public residing in Shelby County to take depositions in Dallas County.

NOTICE OF CONTEST.

The chief points of objection to the notice of contest relate to the precincts of Dallas County. As to them the notice has been objected

to as insufficient. To dispose of this objection will require no more than a brief reference to the specifications of notice. They are much alike, and are afterwards extended by other general statements. The selection of so much of the notice as relates to one precinct will present very substantially the notice as to others. For this purpose precinct No. 12 may be taken as a fair example of the others. The notice of that is:

At precinct No. 12 in said county, commonly called Old Town, there were actually cast at said election 35 votes. You were credited with and allowed 278 votes, and myself with none. Of the 278 votes allowed you at least 243 votes were in fact never cast, and of the 35 votes actually cast I claim and charge that I received a large portion thereof.

What the statute has required that the notice shall contain is that it shall specify particularly the grounds upon which he (the contestant) relies in the contest. (U. S. Rev. Stat. 18, sec. 105.)

This notice did all, and even more, than the language of the statute exacted. It surely apprised the contestee of the grounds on which the contest was intended to be made. What the law requires is a reasonable degree of information, and that as to this and the other precincts was given.

NOTARIAL POWERS.

It was also objected for the contestee that the notary before whom the evidence was taken was without authority to take that obtained out of the county for which he had been appointed to act, under the laws of the State. But he was not acting under the restrictions imposed upon him by the laws of the State of Alabama in taking this evidence.

The laws of the United States prescribe a special mode of proceeding for this class of cases, and aside from this authority no evidence in a contested election could be taken before the officers enumerated in the statute. An object of the statute was to point out the persons who should be empowered to take the evidence, not to exercise their functions as State, city, or county officers, but to execute the full authority created for this purpose by Congress. The notary is one of these officers selected, however, to act under Federal, not under State authority, and the power to act has been given him commensurate with the object to be attained.

By the language of the statute the contestant is empowered to apply for a subpoena to any notary, etc., who may reside within the Congressional district in which the election to be contested was held. The officer is also required to issue subpoenas, directed to all such persons as shall be named by him, requiring attendance at some time and place named in the subpoena. The only restriction imposed is, that the witness shall not be required to attend out of the county of his residence.

As to the power of the officer, he may act anywhere within the Congressional district. His authority has been restricted to no subdivision whatever. He may issue subpoenas for all such witnesses as shall be named to him and the subpoenas must be returnable before himself. As that is the mode of proceeding which has been indicated any officer mentioned in the statute may act, and the authority for so acting is full and effectual. The law further provides that the witnesses who attend shall be examined on oath by the officer who issues the subpoena, unless he may be absent, etc.

From the generality of these regulations it is clear that a single officer has been empowered to issue all the subpoenas and to take all

the evidence. They are quite explicit and create a system in and of themselves, in no measure dependent upon the laws of the State. (U. S. Rev. Stat. 19, 20, secs. 110, 115, 120.)

This effect was accorded to the statute in the contest of Washburn against Voorhees (2 Bartlett, 54).

DALLAS COUNTY.

The election was held in 28 precincts of this county. As to the returns from 13 of them no evidence has been offered, and they must stand as certified to by the election officers. In these precincts Robbins received 221 votes and Aldrich 42. So it appears that Mr. Robbins's returned vote in this county of 5,462 comes largely from the other 15 precincts to which the evidence confines our inquiry. The contestee relies wholly upon the presumption in favor of the truthfulness of the return of the election officers, and produces no witnesses to contradict the evidence tending to impeach the returns from these precincts, which has been offered by the contestant.

We are convinced, however, that this presumption can not stand against the uncontradicted evidence of the contestant, and that the returns from at least 13 of these precincts are rendered wholly untrustworthy.

The voting population of the county is shown to be about 10,000, of which 7,500 are colored, and 2,500 are white. The colored voters, with but rare exceptions, are Republicans. Up to about the year 1890 the white voters, save in a few instances, were Democrats. Since the year 1890 a portion of the white voters have been breaking away from the Democratic party, while others called themselves Jefferson Democrats. Both of these factions ceased to vote the Democratic ticket as a rule.

Prior to 1876 this county had been in the custom of giving to the Republican ticket about 5,000 majority. After this the election machinery passed into the hands of the Democratic party. This Republican majority thereupon disappeared, and the county has been returned as giving to the Democratic ticket of from 5,000 to 9,000 majority. This result was brought about by the use of unlawful devices, one of which was that when Republican votes were cast they were counted for the Democratic ticket. By this means a Democratic majority was returned nearly as large as the entire vote of the county.

In the hope that they might prevent the adding of their votes to that for the Democratic ticket, the Republican voters of the county were instructed by their leaders to refrain from registering or voting on November 6, 1894. This instruction was quite generally obeyed, and but a small per cent of the Republicans either registered or voted. But, notwithstanding this, they were still counted as having voted the Democratic ticket; nor did the corruption end here. Others who had been dead for years, and some who had removed from the precinct, and even out of the county, were recorded as having voted the same way. The election officers were not satisfied even with this. Hundreds of fictitious names were added to the poll list, all of which were counted for the Democratic ticket.

This will now clearly appear from a review of these precincts in their order:

Summerfield beat, No. 2.—The inspector's certificate credits 160 votes to Robbins and 2 to Aldrich.

Witnesses on the poll list as voters testified that they did not vote. The names of dead and absent voters are also found there. A. S. Jones

says he was at the polls from their opening to their close, and saw and counted all who went into the polling place; that the number was only 31. Henry Koyton, who was only 80 yards away from the polling place and in full view of it all day, says that only 35 voters went there during the day of the election. As this evidence is not disputed we must conclude that only 31 persons could have voted at this precinct. The certificate of the inspectors, therefore, can not be relied on, and since there is no evidence as to whether these persons voted after entering the polling place, or for whom the votes were cast, we are unable to count any for either candidate.

Woodlawn beat, No. 3.—The poll list named 130 for Robbins and 9 for Aldrich.

Samuel Seay says that he was at the polls before they opened, and remained until they closed, and saw and counted all who came to the polls and had an opportunity to vote—31 in all. He further says that there are only 45 white voters in the precinct.

R. B. Cater was also at the polls with Seay, and counted the persons who came there to vote, and that there were only 14. He was the last man who voted, and his number on the poll list was 14. He was in jail once for horsewhipping a person. Three persons, whose names are on the poll list as voters, swear that they did not vote. The only evidence which tends in any degree to contradict this is the testimony of St. John Lewis Tavel, one of the inspectors. The statements of this witness are not reliable. He has no recollection of being sworn as an inspector. As to the number who voted, he first says that he thinks there were more than 14, but when asked if he would be positive about this, he makes this answer: "I refuse to answer the question. I recognize that I am under oath now." He also leaves it in doubt as to whether he signed the returns. He says he voted for Robbins. This is the only proof we have for whom these 14 votes were cast. We throw aside the returns, and give Robbins the vote cast for him by Tavel.

Martins beat, No. 7.—Returns state the vote to be 503 for Robbins; none for Aldrich.

Lee Bell and William Bell tell us that they were at the polls before they opened, and during the day, and until after the close, at dark. They counted the persons who entered the polls and there was but 60 in all, white and colored; but they can not tell the number of white or the number of colored persons.

An inspector of this precinct, Louis Bamberger, was present while the evidence was being taken and refused to be sworn. Two persons, whose names are on the poll list, swear that they did not vote. The returns can not be trusted. It is also impossible from the evidence to tell for whom these 60 votes were cast, and we count none for either candidate.

Orville beat, No. 8.—The vote returned for Robbins is 368, Aldrich 1, blank 1.

E. M. Riley was at the polls, for the purpose of watching how the election was conducted, to about 11 o'clock a. m., when he was driven away by threats of bodily injury, because he was engaged in the business of watching the polls. J. B. Ellis, one of the inspectors, was of the persons who made threats against Riley, and insisted upon driving him away. Up to the time Riley left only 14 votes had been polled. O'Brien, an Organized Democrat, says that he voted about or after 2 o'clock p. m. His name is seventh on the poll list. Booth, another Democrat, says that he voted after 12 and before 3 o'clock. His number on the poll list is 294. O'Brien and Booth voted for Robbins. The names of

26 dead and absent persons are found on the poll list. We can give no credit to these returns. We count for Robbins the 2 votes of O'Brien and Booth, and these are the only votes we can count.

Lexington beat, No. 9.—This precinct returned for Robbins 250 votes; Aldrich 1.

Gilbert Johnson says that there are not more than 50 white voters in the precinct. The rest are colored, and Republican to a man. He was at the polls all day and voted as the last man—at about 5 o'clock p. m. He kept a record of all who went in the polling place, and states the number as being 37 in all, and that no more than this number could have voted; that 33 of these were white and 4 colored. E. R. Wilson, an Organized Democrat, says there are only 45 white voters in the precinct. He voted for Robbins. Witnesses whose names are on the poll list testify that they did not vote. The returns are therefore unreliable. Other than the 5 given to Robbins, we can not tell for whom any votes in this precinct were cast.

River beat, No. 10.—This precinct returned for Robbins 276 votes and none for Aldrich.

Jacob Bowie, who was a ticket turner and inspector at this precinct, says that there were not more than 15 or 20 white men living in it, and 500 or 600 colored; that he was the only colored man at the polls on election day; that only 7 or 8 men voted, and they were all white, with the exception of himself; that when the voting was over he saw the tickets counted, and there were only 7 or 8 of them; that Hunter, an inspector, called off a list of names of persons who had not voted there, and as he called them off the other inspector, Stanfill, put them down. Bowie voted for Aldrich. He could neither read nor write, and touched the pen in signing the returns without knowing their contents. There are names of dead and absent persons on the poll list, and of others who swear that they never voted. The returns can not be relied on. The vote of Bowie for Aldrich is the only one that can be counted.

Old Town beat, No. 12.—Two hundred and eighty votes are returned—2 blanks, and 278 for Robbins.

Louis T. Jones says he voted about 9 o'clock, and was around where he could see the voting place for about two or three hours. He only saw 6 or 8 persons there. He voted for Robbins. Other evidence discloses that nearly all of the voters in the precinct are colored, and the colored voters are Republicans. Sixteen persons whose names are on the poll list swear that they did not vote. The returns are wholly tainted with fraud. Outside of the returns we have no proof as to how any vote was cast, except that of Jones for Robbins.

Union beat, No. 23.—The poll list states 293 votes were cast; all for Robbins.

Two witnesses, R. L. Grimes and A. L. Gilmer, say that they were at the polls from the opening to the close, and that only 6 persons, including the election officers, went into the polling place. Six other witnesses, whose names are on the poll list, say that they did not vote. The returns are, therefore, fraudulent. Assuming that the 6 persons who entered the polling place voted, we were without means of telling for whom. We, therefore, count no votes for either candidate.

Pences beat, No. 24.—Thirty votes were returned; all for Robbins.

William Bell says that only 1 person voting showed a registration certificate, but will not swear that the others had none. This is not sufficient to impeach the returns. The only other evidence tending in that direction is the oath administered to the inspectors, which is this:

Do you solemnly swear that you will hold this election according to law, to the best of your knowledge; so help us over the fence.

If this should be held not to be an oath, still we think the returns should not be thrown aside for the failure of election officers to be sworn. We therefore count this precinct as returned.

Libertyhill, No. 25.—The poll list returns 274 votes; all for Robbins.

E. S. Kline says that he has heard that there are only 40 white voters in the precinct. S. M. Rothschild states that he is acquainted with the people in the precinct, and that there are only 30 white voters in the beat; that the balance are colored, who are Republicans, as a rule. This statement of Rothschild's throws considerable suspicion on these returns, and tends to make us doubt their correctness. What Rothschild says renders it impossible for Robbins to get 274 votes in the precinct without a large per cent of them coming from the colored voters, who it appears are Republicans; and no reason is given for them voting for Robbins. But the colored men of this precinct may have had some cause for voting for Robbins which is not shown by the record. There is no reason given why they should not do so, except that they are Republicans. We have concluded, therefore, that we should not throw aside these returns without evidence more substantial and satisfactory. The precinct will therefore be counted as returned.

Elm Bluff beat, No. 32.—The poll list of this precinct states that there were 135 votes cast, of which Robbins received 123 and Aldrich 12.

J. H. Van Pelt, a Democratic inspector at this precinct, tells us that only 7 votes were cast, and is positive that 135 were not. He saw the ballots counted out, and there were only 7. He also names the 7 persons that voted. His vote was cast for Robbins. The other 2 inspectors voted, and 1 colored man. There is no reason to doubt the truthfulness of this witness, although he acted improperly in signing the returns. That, probably, came from his inclination to act with his party. Such an inclination would guard him from giving false evidence against his party associates. A number of witnesses, whose names are on the poll list, swear that they did not vote. The returns are impeached. The 3 election officers are shown to be Democrats, and that they all voted. We therefore give these 3 votes to Robbins. We can not tell how the other 4 voted.

Carlownville beat, No. 33.—In this precinct 127 votes were reported as cast; all for Robbins.

J. J. Carmichael, a colored school-teacher, says that he was at the polls from 7 a. m. to about 4.30 o'clock p. m., and that there were only 14 or 15 men who came there to vote. He and another man were there, but neither of them voted. B. F. Rowell, a Democrat, swears that he voted for Robbins; that there are only 31 to 33 white voters in the precinct; that a majority of these white voters are Democrats, and some belong to the People's Party. Two witnesses, whose names are on the poll list, swear that they did not vote. The returns are therefore discredited. The vote of Rowell for Robbins is the only one we can count.

Boykins beat, No. 34.—In this precinct 25 votes were reported as cast; 24 were for Robbins and 1 for Aldrich.

Simon Joseph, an inspector, swore he assisted in holding the election, and that only 12 persons voted; that the other inspectors put votes in the box for persons who were not there, to all of which he remonstrated; that when the box was opened there were found to be 25 votes in it; that he signed the returns under protest, claiming that they were wrong. There is no reason for disbelieving the statements of this witness, and they render the returns worthless. Joseph says he voted for Aldrich. There is evidence tending to show that the other 11 votes were for Robbins. We therefore count 1 vote for Aldrich and 11 for Robbins.

Mitchells beat, No. 35.—Three hundred and eighty-nine votes are returned; all for contestee.

It was proved very satisfactorily that this number of votes were not polled at this precinct. Mr. Simonton, who was an inhabitant of the precinct and knew its population, informs us that there were from 30 to 35 white voters in the precinct, and 375 colored. Two persons, whose names are on the poll list, worked for him during the election day and did not vote. That of the white voters in the precinct 25 or 26 were Organized Democrats, and that there are 8 or 10 who do not belong to the Democratic party. That the colored voters are generally Republicans. L. W. Mason says he went to the polls at a quarter to 8 o'clock in the morning and remained there until half-past 5 in the evening, and that the polls closed at ten minutes to 5 o'clock. He saw and counted all who went into the polling place and the number was only 17, and only 16 of them voted. He says he put down the name of every voter on a memorandum book. He also says that he is a Democrat and has been all his life. Two witnesses testify that they did not vote, though their names appear on the poll list. The returns are unreliable. We are convinced that only 16 votes were cast in this precinct. We are in some doubt for whom these men voted. There is some evidence tending to show that they were Democrats. We have therefore concluded to count these 16 votes for Robbins.

City beat, No. 36.—The vote returned here is 2,021, of which 2,014 are given to Robbins, 5 to Aldrich, and 2 are said to be improperly marked.

This precinct was the subject of a large amount of evidence and attention on the hearing which took place. It was the voting precinct of the whole city of Selma, a city which is said by some of the witnesses to contain about 10,000 inhabitants. We think these figures exaggerated, however, for it would show an extraordinary growth since the taking of the census in 1890, when the population appeared to be about 7,500. The vote returned in this precinct is largely fraudulent. The poll list represents, without doubt, from 1,200 to 1,300 fictitious names which do not stand for legal votes cast at the election. There was but one voting place in this precinct, and if 2,021 votes were cast they were all received by one set of election officers and deposited in one ballot box between the hours of 8 o'clock a. m. and 5 o'clock p. m. This would be at the rate of nearly 4 votes a minute, without a single intermission. It is hardly necessary to say that this is incredible, and stamps the returns as fraudulent upon their face. We have various estimates of the strength of the Democratic vote in this precinct, ranging from 800 to 1,500.

J. C. Compton, a lawyer who had resided in the city for a number of years, a Democrat in politics, and at one time president of the senate of the State of Alabama, says that 45 per cent of the population of the city are white, and 55 per cent colored. The colored voters are shown to be uniformly Republican. We doubt whether there are 2,000 voters in the whole city of Selma, counting both white and colored. We think a fair estimate would place the number somewhere between 1,600 and 1,800. Of this number less than one-half could be called Democrats. So the vote returned is more than twice the actual Democratic vote in the city, and in reality between 200 and 300 more than all the votes of both Republicans and Democrats. We have much proof, outside of these considerations, which directly tends to impeach the returns.

Tate Mason swears that he was at the voting place all day, and that

the voting place was in the court-house. That out of curiosity he counted every voter that went into the court-house, and he puts the number at 715, including the election officers. He says he was in a position where he could see all who went into the court-house during the day. He did not see inside the voting room. S. P. McIlwain, another witness, also testifies that he was at this precinct all day and counted every man who entered the court-house, and puts the number at 723, all white with the exception of 11. The manner in which these two witnesses kept tally of the men who entered the court-house, however, throws some doubt upon the accuracy of their statements.

George Craig, a lawyer, having held important official positions, among which is that of Member of Congress, and familiar with the population of the city for twenty-five or thirty years, says that he does not know of three colored Democrats in the city. He also made a careful examination of the poll list and recognized no more than 696 names as persons who did or ever had resided in Selma. The rest of the names were persons he had never heard of. In the 696 names he did not recognize over 50 names of the colored residents of the city. David Lloyd, fourteen years a resident of and a business man of Selma, after an examination of the poll list, says that there are not over 750 to 800 qualified voters of the city of Selma on the list. John A. McKinnon, a physician in practice in Selma, and at one time register of vital statistics, testified that after a careful examination of the poll list that from No. 1 to 221, the name of J. L. Schweizer, there were only 190 persons he knew. From 221 he recognized no names until he reached 1234; that the names he did not recognize were not resident citizens and qualified electors in the city precinct; that from 1234 to 1722 he recognized names of resident voters; that from 1722 to 2019 he recognized none as belonging to persons within the city precinct. He also says that not all of the white men residing in the city were Democrats.

From the testimony of these witnesses it is clear that there are not over 700 names on the poll list which represent qualified voters of the precinct. How many of these actually voted it is impossible to tell. J. L. Schweizer swears that he voted at half past 4 o'clock. He remembers distinctly of having looked at the clock about the time he started to the polls, and knows that it was about 4.30 in the afternoon. His number on the poll list, as we have seen, is 221. We have also seen that McKinnon says that down to Schweizer's name he recognizes 196 names of qualified voters. The work of padding the list with fictitious names had not been extensively done down to this point. From this we might assume that the legal voters' names had been put down very nearly in the order in which they voted. If this is so, then about 200 legal votes were cast at the time Schweizer voted. This leaves only thirty minutes of time in which votes can be cast. But this method of reaching the correct number of votes actually cast is not quite satisfactory, for another witness testifies that he voted at about half past 4 o'clock, and his number on the poll list is 1676. Neither is it safe to assume that the whole 700 persons whose names are recognized on the poll list voted, for it is shown by other evidence that a number of these were dead, while others had removed from the precinct. Some, also on the poll list, swore that they did not vote at all.

J. H. Crocheron, one of the inspectors, is referred to as sustaining the returns, but from his own statement he was a mercenary person, ready to state the case differently if he was paid the money he wanted for doing it. His evidence is, of itself, entitled to little weight, and is

deprived of all its effect by that which is given by other witnesses above referred to. While it is true the contestant could not discredit him by impeaching evidence, it was competent for him to contradict Crocheron by other witnesses, proving the facts to be different from the statements made by him. This was surely done. The returns from this precinct are so thoroughly saturated with fraud and falsehood as to become utterly worthless for any purpose. They give us no possible clew by which we can determine the actual number of legal votes cast, and it is impossible to obtain this from any source.

The two witnesses who counted the voters who entered the courthouse did not see them vote. We make no question but what many of them went there for the purpose of voting, while it is probable that others were called there on different errands. So if we should assume that the count of these witnesses was correct, substantially, we are still left in the dark as to the number of votes cast. Should we assume that 700 men did vote, still the question for whom they voted remains unanswered. We can not assume that all these voters were white men, for the names of something near 50 colored voters are found in the list. Though we ascertain that 700 white men voted, we are no nearer the answer to this question; for the evidence revealed to us that not all the white men are Democrats. Three witnesses—namely, Bridges, Bowles, and Compton—swear they voted for Robbins; one witness, McKinnon, says he voted for Aldrich. Here is all the evidence we have as to how anyone voted. We therefore count 3 votes for Robbins and 1 vote for Aldrich.

The result in these 15 precincts, as reached by us, under the evidence, can be tabulated as follows:

Precinct.	Robbins.	Aldrich.
No. 2, Summerfield	0	0
No. 3, Woodlawn	1	0
No. 7, Martin	0	0
No. 8, Orrville	2	0
No. 9, Lexington	5	0
No. 10, River	0	1
No. 12, Old Town	1	0
No. 23, Union	0	0
No. 24, Pence	30	0
No. 25, Libertyhill	274	0
No. 32, Elm Bluff	3	0
No. 33, Carlisleville	1	0
No. 54, Boykin	11	1
No. 35, Mitchell's	16	0
No. 36, City beat	3	1
	347	3
Add vote of 13 precincts	221	42
Total vote Dallas County	568	45

These conclusions are fully sustained by the evidence offered by contestant, which the contestee did not seek to rebut, except by proving in a number of instances that the inspectors, and their associates controlling the election proceedings, were men of good character, and would be believed on their oaths. If they were really persons of such standing, and in no way implicated in what is strongly shown to be gross violations of the law, they should have been sworn as witnesses, and, as far as they could, vindicate themselves and clear their good names from the implication of crime. It is hardly conceivable that men of good repute and sensitive concerning their honor would remain quiet under such charges of evil doing, unless such charges were true. But neither

of them came forward as witnesses. This conduct strengthens the belief that these charges must be well founded, and could not be denied without adding other offenses to the one already committed.

It is a familiar principle that a case, even though it be a weak one, can be strengthened by the omission to give exculpatory evidence, clearly within the control of the persons affected. Respect for themselves, as well as their duty to the public, would have naturally led to the giving of this evidence by the accused persons if they had not been guilty of such grave offenses.

MONTEVALLO, BOX 1, SHELBY COUNTY.

The returns state the vote for Mr. Robbins to be 208 and for Aldrich 199.

An inspector states that he prepared about 200 tickets of illiterate voters, all for Mr. Aldrich. He says he was busy all day long and did not keep an exact account. He does not state the number with absolute certainty, but from his best judgment. Another witness says that he kept an account of all the persons who publicly declared that they had voted for Aldrich, and the number was 273. The affidavits of 283 persons were read by consent, in which each swore he had voted for Aldrich. The poll list of this precinct was not returned, but all the ballots were. No effort was made by the contestant, in taking his evidence, to count these ballots.

ANNISTON, WARD 1, CALHOUN COUNTY.

Mr. Aldrich is here credited with 31 votes; 18 persons testified that each of them had voted for him. An agreement was then entered into by counsel representing the parties that 45 persons who had been subpoenaed by contestant voted for him. But counsel for contestee denied that this was true in fact.

ANNISTON, WARD 2.

It was also agreed by counsel for the parties that more than 45 persons who had been subpoenaed by contestant would swear they voted for Mr. Aldrich. It is also agreed that a large number of witnesses included in the above are not able to read and write. In this ward 109 votes were returned for Robbins and 45 for Aldrich.

ANNISTON, WARD 3.

Here 14 votes were returned for Aldrich and 42 for Robbins. Twenty-four persons swear that they each voted for Aldrich. One witness swears that there are 85 colored voters in the ward; that he recognizes 23 of them on the poll list, all of whom are Republicans but 1. The contestant in taking his testimony made no effort to have the ballots produced and inspected.

The laws of Alabama require that the ballots shall be sealed up and returned to the office of judge of probate of the county. There is no evidence in the record but what this had been done. Neither does it appear that the ballots had been in any way tampered with. The obvious purpose of this provision for the preservation of the ballots is that they might be used to correct frauds or mistakes in the returns. They could serve no other end. When they have not been in any way altered since they were put in the ballot box they will show just how each person voted, and certainly they are the best evidence of this fact. We hold that they should be resorted to in the first instance, and that secondary evidence can not be offered of their contents until it be shown that they have been so tampered with as not to speak the truth.

Upon the evidence adduced we do not feel warranted in making any alterations in the returns from Montevallo, box 1. This is also true as to the returns of 4 wards in the city of Anniston. A compiled vote of the district, when thus purged from fraudulent returns, will be as follows:

County.	Robbins.	Aldrich.
Calhoun	1,838	1,481
Chilton	320	785
Cleburne	562	677
Dallas	568	45
Shelby	920	1,631
Talladega	1,390	2,110
Total	5,598	6,729 5,598
Majority for William F. Aldrich		1,131

It is to be regretted that the evidence was left in such a shape as to point out no way by which we can tell who received the votes which may have been actually cast in the disputed precincts of Dallas County. When the returns were so vitiated by fraud and falsehood as to cease to be reliable sources of information they could not be looked to for any purpose, and so furnished us no assistance. We could not say that such votes were cast for Mr. Robbins without something upon which to base this assumption. While it is true that the instructions issued to Republicans not to vote was quite generally followed, still there were a few Republicans who refused to obey these instructions, and actually went to the polls and voted. This is shown by the returns of the 13 precincts about which there is no dispute, in which Aldrich received a total of 42 votes. It further appears from the returns of the disputed precincts that he received 31 votes. Besides there were Populists and Jefferson Democrats to whom these instructions did not apply. It is evident, therefore, that only one course could be pursued, and that was to count only such votes for either candidate as the evidence showed were cast for him. But had we counted all these votes for Mr. Robbins, except those which are admitted to have been given for Aldrich, the result would have been the election of Mr. Aldrich by a small majority.

The number of voters seen going into the polling places by the witnesses, including Pence and Libertyhill precincts, which we counted as returned, is 1,251. But it is admitted that in the same precinct Aldrich received 31 votes, which must come out of the total of 1,251 in order to find the vote to be given to Mr. Robbins, which leaves 1,220 votes. Now add to this 221 votes which Mr. Robbins received in the other 13 precincts and we have a total for Dallas County in favor of Robbins of 1,441 votes. It is admitted that Aldrich received 73 votes in Dallas County. On this calculation the vote of the district for these candidates would be as follows:

	Robbins.	Aldrich.
Dallas County	1,441	73
Outside of Dallas County	5,030	6,684
Total	6,471	6,757 6,471
Majority for Aldrich		286

These frauds upon the ballot box have abounded in Dallas County for several years, by means of which a majority of the legal voters of the county have been practically disfranchised. These evil practices could not have been carried to such an alarming degree without the sanction and acquiescence of many of the intelligent and influential people of that community. A thoroughly aroused popular sentiment, determined upon the observance of the law which shields the ballot from corruption, led by these same men, would soon put an end to these evil practices. This House can not give its sanction to such frauds. It must cast its tremendous influence in favor of the purity of the election of its own Members. It must maintain its own honor and self-respect. With this in view, it can not suffer a man to hold a seat among its Members which has been obtained in this way.

We therefore recommend the adoption of the following resolutions:

“Resolved, That Gaston A. Robbins was not elected as a Member of the Fifty-fourth Congress from the Fourth district of Alabama, and is not entitled to a seat therein.

“Resolved, That William F. Aldrich was elected a Member of the Fifty-fourth Congress from the Fourth district of Alabama, and is entitled to a seat therein.”



WILLIAM F. ALDRICH v. GASTON A. ROBBINS.

FEBRUARY 29, 1896.—Referred to the House Calendar and ordered to be printed.

Mr. DANIELS, from the Committee on Elections, No. 1, submitted the following as the

VIEWS OF A PORTION OF THE COMMITTEE:

[To accompany House Res. 187.]

We, the subscribers, members of Committee on Elections, No. 1, do hereby certify and report to the Speaker of the House of Representatives in Congress assembled, that we have heard the arguments of counsel for William F. Aldrich, contestant, and Gaston A. Robbins, contestee, and carefully considered the same, and the evidence relating to the contest of said parties as to the respective right of each to represent the Fourth Congressional district of the State of Alabama in the Fifty-fourth Congress of the United States, and after due deliberation thereon we have concluded and decided that the objections raised to the notice and the powers of the notary are not well taken, and that the true and legal votes given for the contestee in the precincts hereinafter named, and forming parts of said Congressional district, and chiefly in Dallas County, one of the counties comprised within said Congressional district, were and are as is hereinafter stated and set forth.

NOTICE OF CONTEST.

In the notice of contest the chief points of objection are the several precincts of Dallas County. And as to them the notice has been objected to as insufficient. To dispose of this objection will require no more than a brief reference to the specifications of the notice. They are much alike in their references, and are afterwards extended by other general statements.

The selection of so much of the notice as relates to one precinct will present very substantially the notice as to the others. For this purpose precinct No. 12 may be taken as a substantial example of the others. The notice as to that is:

At precinct No. 12, in said county, commonly called Old Town, there were actually cast at said election 35 votes. You were credited with and allowed 278 votes, and myself with none. Of the said 278 votes allowed you at least 243 votes were in fact never cast, and of the 35 votes actually cast I claim and charge that I received a large proportion thereof.

What the statute has required that the notice shall contain is that it shall specify particularly the grounds upon which he (the contestant) relies in the contest. (U. S. Rev. Stat., 18, sec. 105.)

This notice did all and even more than the language of the statute exacted. And it surely apprised the contestee of the grounds on which

the contest was intended to be made. What the law requires is a reasonable degree of information, and that as to this and the other precincts was given.

NOTARIAL POWERS.

It was also objected for the contestee that the notary before whom the evidence was taken was without the authority to take that obtained out of the county for which he had been appointed to act under the laws of the State. But he was not acting within the restrictions imposed upon him by the laws of the State of Alabama in taking this evidence. The laws of the United States prescribed a special mode of proceeding for this class of cases, and aside from this authority no evidence in a contested election could be taken before the officers enumerated in the statute.

An object of the statute was to point out the persons who should be empowered to take the evidence, not to exercise their functions as State, city, or county officers, but to execute the full authority created for this purpose by Congress. The notary is one of these officers, selected, however, to act under Federal, not under State, authority, and the power to act has been given to him commensurate with the object to be attained.

By the language of the statute the contestant is empowered to apply for a subpoena to any notary, etc., who may reside within the Congressional district in which the election to be contested was held. The officer is also required to issue subpoenas directed to all such persons as shall be named to him, requiring their attendance at some time and place named in the subpoena. And the only restriction imposed is that the witness shall not be required to attend out of the county of his residence.

As to the power of the officer, he may act anywhere within the Congressional district. His authority has been restricted to no subdivision of it whatever. He may issue subpoenas for all such witnesses as shall be named to him, and the subpoenas must be returnable before himself. As that is the mode of proceeding which has been indicated, any officer mentioned in the statute may act, and in acting has been given complete authority to act wholly and effectually. The law further provides that the witnesses who attend shall be examined on oath by the officer who issued the subpoena, unless he may be absent, etc.

From the generality of these regulations it is clear that a single officer has been empowered to issue all the subpoenas and to take all the evidence. They are quite explicit, and create a system in and of themselves in no measure dependent on the laws of the State (U. S. Rev. Stat., 19, 20, secs. 110, 115, 120), and this effect was accorded to the statute in the contest of Washburn against Voorhees (2 Bartlett, 54).

The Fourth Congressional district of the State of Alabama consists of the counties of Calhoun, Chilton, Cleburne, Dallas, Shelby, and Talladega.

The contestant had a majority of the vote, except in the county of Dallas, which returned a majority of 5,390 against him. That has been known as one of the counties of what is called the Black Belt, in which the colored population largely preponderates. It is to certain precincts in that county that the main objections have been directed of illegal voting and the placing in the ballot boxes of fraudulent votes. These precincts will now be considered, together with the evidence relating to them, and the deductions from the returned vote will be shown, after

applying a liberal construction of the circumstances in favor of the contestee.

The evidence proves the following statements of the votes:

SUMMERFIELD BEAT, NO. 2.

The inspector's certificate credits 160 votes to Robbins and 2 votes to Aldrich. Thirty-one votes only were cast.

A. S. Jones saw and counted all that went into the polling place while the polls were open; 31 in all.

Henry Koyton says there were not more than 35. He was at home, 80 yards from the polls.

Witnesses, on the poll list as voters, testified that they did not vote. The names of dead and absent voters are found in the list. One hundred and twenty-nine votes should be taken out.

WOODLAWN BEAT, NO. 3.

The poll list named 130 for Robbins and 9 for Aldrich.

Samuel J. Seay said that he was at the polls before they opened and remained until they closed, and that only 14 votes were cast, and that there were only 45 white men in the precinct.

R. B. Cater, a colored school-teacher, was the last man (fourteenth) that voted, and he makes the same statement. He was once in jail for horsewhipping a person. One hundred and twenty-five should be taken out.

MARTIN'S BEAT, NO. 7.

Returns state the vote to be for Robbins 503, and none for Aldrich.

Bell was at the polls before they opened, and during the day, and until after the close, at dark. He counted the persons who entered the polls, and there were but 60 in all, white and black.

William Bell, jr., says he was there all day and counted all the persons who went to the polls, 60 in all.

Inspector Louis Bamberger was present and asked to be sworn, and he refused, and was afterwards falsely published as dead.

Four hundred and forty-three votes returned for Robbins are false and should be deducted from his vote.

ORVILLE BEAT, NO. 8.

The vote returned for Robbins is 368, Aldrich 1, blank 1.

Riley was at the polls to about 11 o'clock, and was then driven off by threats of bodily injury, as he was watching. He swears that 14 votes had been polled then.

O'Brien, an Organized Democrat, voted about or after 2 o'clock. His name is seventh on the poll list. Booth voted after 12 and before 3. Both voted for Robbins. The names of 26 dead and absent persons appeared on the poll list.

Gilbert Johnson testified that there were but 50 white voters in the precinct, and only 4 colored persons voted for Democratic ticket. If all the white persons voted, which is not probable, then 364 votes should come out of those given the contestee.

LEXINGTON, NO. 9.

This precinct returned for Robbins 250 votes; Aldrich, 1.

Gilbert Johnson says not over 50 white voters were at the polls; was all day at the polls, and voted about 5 o'clock; kept a record of

persons there, and it was not possible that more than 37 voted, including election officers; 33 were white and 4 colored.

E. R. Wilson, an Organized Democrat, voted for Robbins. There were only 45 white voters in the precinct, the rest were colored people. Witnesses, whose names are on the list, testified that they did not vote, and other names are those of dead and absent persons. There are 213 excess votes for Robbins.

RIVER BEAT, NO. 10.

This precinct returned for Robbins 276 votes and none for Aldrich.

Jacob Bowie says he was a ticket turner and inspector. Not more than 15 or 20 white men were living in the precinct. Five hundred or 600 colored voters lived in it. He was the only colored person there was at the polls all day. There were not more than 7 or 8 men voted; they were white people. There looked to be only 7 or 8 tickets in the box. There were dead and absent persons named on the list. Persons named on the list swore that they neither registered nor voted. Bowie could not read or write, but touched the pen in signing the returns. Two hundred and sixty-eight votes for Robbins must come out.

OLD TOWN BEAT, NO. 12.

Two hundred and eighty votes are returned; 2 blanks, 278 for Robbins.

Louis P. Jones voted about 9 o'clock, and was around for two or three hours where he saw the voting place. Six or eight persons were at the polls when he went there. He voted for Robbins. Eleven persons on the list swore they did not register or vote. Nearly all the voters are colored. There are from 175 to 200 voters in the precinct. On his way from the polls he saw only one person going there.

The returns from this precinct are wholly tainted with fraud. At least 270 votes for Robbins must come out, for no more than 8 honest votes appear to have been cast.

UNION BEAT, NO. 23.

The poll list states that 293 votes were cast—all for Robbins, none for Aldrich.

R. L. Grimes, a farmer, swore that he was at the polls from opening to close, and 6 votes—not over 6—including the officers, were voted. Gilmer, a Democrat, swears to the same—that not more than 6 persons voted—and that the list was fraudulent and false. Other witnesses swore that they did not register or vote.

Two hundred and eighty-seven votes for Robbins should be taken out.

PENCES BEAT, NO. 24.

Thirty votes are returned for Robbins; Aldrich, none.

William Bell says that only one person showed a registration certificate. He would not swear that the rest had none. That evidence is not sufficient to impeach the return from this precinct.

LIBERTYHILL, No. 25.

The poll lists returned 274 votes, all for Robbins.

E. S. Kline heard it said that there were about 40 voters there.

S. M. Rothschild says that he is acquainted with the people, and there are not over 30 white voters in the beat. Colored people, as a

rule, are Republicans. Giving Robbins all the white persons, while it is not probable that they all voted, his vote should be reduced to 30 votes. Taking the excess from those returned, 244 votes should be taken out of the vote returned for the contestee.

ELM BLUFF BEAT, NO. 32.

The poll list of this precinct states that there were 135 votes cast. Robbins received 123 and Aldrich 12.

J. H. Van Pelt, a Democrat, and an inspector of the election, thinks 7 voted. Positive 135 did not. He signed papers without looking them over. He thinks the inspectors counted ballots, and there were 7 in the box. He voted for Robbins. Other witnesses swore that they did not vote. Van Pelt signed poll list and certificate.

There is no reason justifying the supposition that Van Pelt was not a truthful witness, although he acted improperly in signing the returns. That probably came from his inclination to act with his party. And that inclination would surely guard him against giving false evidence against them. The contestee should lose 116 votes in this precinct.

CARLOWVILLE BEAT, NO. 33.

In this precinct 127 votes were reported as cast; all of them for Robbins, none for Aldrich.

J. J. Carmichael, a colored school-teacher, testified that he was at the polls from 7 a. m. to about 4.30 o'clock, and before the polls closed there were, to the best of his knowledge, 14 or 15 white men at the polls. He and another colored man were there, but neither of them voted.

One colored Democrat in the district, R. F. Rowell, swears that there were 31 to 33 white voters in the district, and the majority of them were Democrats, and some claimed to belong to the People's Party. He voted for Robbins. Some were colored Democrats, colored Republicans, and Populists. It is not probable that many voted after 4.30 o'clock; but supposing the 31 did, then 96 votes would have to be taken from Robbins.

BOYKINS BEAT, NO. 34.

In this precinct 25 votes were reported as cast; 24 were for Robbins, 1 for Aldrich.

Simon Joseph, an inspector, swore that he assisted in holding the election, and that only 12 persons voted; that the other inspectors put votes in the box, but he remonstrated against that. But when the box was opened there were only 25 votes in it. There is no reason for disbelieving this or the other witnesses as to the other precincts. And there should be taken, therefore, from the votes stated for Robbins 13 votes, leaving him 11.

MITCHELLS BEAT, NO. 35.

In Mitchells beat, No. 35, the whole vote was returned by the election officers for the contestee, being 389 in number. It was proved very satisfactorily that this number of votes was not polled at the election precinct, but the votes were mostly fictitious. Mr. Simonton was an inhabitant of the precinct and knew its population, and he testified that there were from 30 to 35 white voters in the precinct; the rest, being about 375, were colored. Of the white voters, 25 or 26 were Organized Democrats, and the colored voters were generally Republicans. Two persons named in the list of those voting worked for him during the election day, 4 miles from the polls, and did not vote.

L. W. Mason, also a witness, stated that he went to the polls at

a quarter to 8 o'clock in the morning, and remained there until half past 5, and the polls closed at ten minutes to 5 o'clock; that 17 persons went to the polling place, but only 16 persons voted, including the election officers. He also added that there were about 35 white voters in the precinct. He added, on his cross-examination, that he had a memorandum book and put down the names of every man that voted; that he watched, and did that only for his own satisfaction. This witness also testified that he was a Democrat, was such on the day of election, and had been all his life.

Berry Moore and Frank Givhan each testified that he did not vote, although his name is in the list of persons voting, and the witness, Givhan, added that the colored voters obeyed the instructions not to register or vote.

The result of this evidence, which was in no respect discredited, is that the vote of the contestee in this precinct must be reduced 373 votes.

CITY BEAT, NO. 36.

City precinct, No. 36, was the subject of a large amount of evidence and attention on the hearing which took place. It was the voting precinct of the city of Selma, a place of probably not exceeding 10,000 inhabitants. The total vote returned is 2,021, out of which the contestee was given 2,014, and 5 for the contestant, and 2 not properly marked. This vote was very largely fraudulent, representing no legal vote given at the election.

Tate Mason, a witness sworn for the contestant, says that the polling place was at the court-house. He was there from the opening to the closing of the polls; that curiosity took him there. He counted all that went into the court-house. There were 715 in all, including the election officers. He tallied by coffee grains. He changed 71 grains, and for 5 he had no grains. He was in a position to see those who went in front and rear entrances, and did see them. There was no other way to go except to climb a fence, and it was admitted that none climbed the fence. After 3 o'clock fewer voted than during any other part of the day. He had reason to believe that election would not be conducted fairly. He did not see the voting room.

S. P. McIlwain testified that he was there all day, except about thirty minutes. There was only one polling place. He counted the men that went into the court-house; there were 723; all white but 11. There was no line of persons there. He said he was a Democrat and voted for Robbins. For every 100 persons voting he said he put a live-oak acorn in his pocket. He said he was in the polling place not over three minutes when he voted, and that there was no other person there then.

J. C. Compton swore that it took about two minutes to prepare his ballot. It was, he said, extremely doubtful whether 2,021 votes could be taken in one day. Ninety-eight per cent of the business men were Democrats. There were four entrances to the court-house.

George Craig, a lawyer, having held very important official positions, among which is that of Member of Congress, and a person entitled to great credit in his statement, testified that he would estimate the vote of Dallas County at 10,000, of which from 2,500 to 2,600 were white and the rest were colored; the latter being almost exclusively Republican, not more than 100 to 200 being Democrats. He knew them extensively as a lawyer and as a politician for twenty-five to thirty years. In Selma a full Democratic vote would be 1,450 to 1,500. He did not know of 3 colored Democrats in the city of Selma. He exam-

ined the poll lists and recognized no more than 696 names as persons who did or had resided in Selma, and the rest were persons he had never heard of, and there were not as many as 50 names of colored residents of the city in the 696.

David Lloyd, fourteen years a resident of and a business man in Selma, stated that he did not think there were over 750 to 800 names of qualified electors of the city of Selma on the list. He had been a supervising inspector, and was obliged by threats to leave the polls last election.

John A. McKinnon, a physician in practice in Selma, and at one time a register of vital statistics, testified, when handed the poll list, of which he made a careful examination, that from 1 to 221, the name of J. L. Schweizer, there were 190 persons he knew. From 221 he recognized no names until he reached 1,234. He stated that the other names he did not recognize were not resident citizens and qualified electors of this city precinct. He stated that he did not think they could be qualified electors and he not know them.

He said that he felt that it could not be. He stated that from 1,234 to 1,722 he recognized them as resident citizens and qualified electors in the city precinct. From 1,722 to 2,019 he recognized none of them as persons he knew in the city precinct.

He states that all the white men were not Democrats, and his acquaintance was extensive there.

J. L. Schweizer, engaged in the jewelry business in Selma, testified that it was half past 4 o'clock in the afternoon when some one in a carriage came for him to vote; that he looked at the clock and it was half past 4, and it, as he supposed, took him five or six minutes to go to the polls, and about ten minutes after he left the store he voted, and his name appears as 221 on the poll list. Other witnesses testified to persons on the list being either dead or absent.

J. H. Crocheron is referred to for the contestee as confirming the poll list as to the number of persons who voted in Selma. But from his own statement he was a mercenary person, ready to state the case differently if he had been paid the money he wanted for doing it. His evidence is of itself entitled to little weight, and it was deprived of all its effect by that which was given by the other witnesses referred to. And while it is true the contestant could not discredit him by impeaching evidence, it is equally true that he could contradict Crocheron by other witnesses, proving the facts to be otherwise, as he surely did prove them to be. And one of the witnesses for the contestant, in answer to a question of the contestee, also stated that he would not believe Crocheron. What this man said may therefore be laid aside as deprived of all credit. It is extremely probable that the witnesses, Tate Mason and S. P. McIlwain, were substantially correct in the count they, respectively, made of the persons who went into the court-house on election day, one stating that there were 715 and the other 723. It may be inferred that these persons generally voted.

The witness who examined the poll list confirms the propriety of this deduction, for among the first 222 persons named, although generally acquainted throughout the precinct, he recognized the names of only 196. After that he went down to where Feibelman and his companion, Stockton, are recorded; extending over 1,000 names in which no others than those two persons were known to him. The list also contained the names of dead and absent persons. In the interval after Schweizer voted it is not in the least probable that the vote of any legal voter was taken.

Taking the evidence of the witnesses together there is a fair probability that up to the two hundred and twenty-first vote the list was nearly, if not quite, correct. Then from the vote, 1,234, it added the names of legal voters who probably voted to the extent of 488 votes, and these numbers added will give 709 as the legal voters of the district voting at this election.

The facts proved favor the conclusion that these figures represent legal votes of those who voted at city poll, No. 36. And the contestant who looked into the probable vote polled at this precinct says, in the last paragraph of part 1 of his notice of contest, that at precinct No. 36, in said county, commonly called Selma or city beat, there were actually cast at said election only 767 votes. This accords so nearly with the evidence as to justify the conclusion that the number is correct. And that requires the deduction from the contestee's vote in this precinct of 1,247 votes, unlawfully added to the honest vote of the precinct. And that spurious votes were added in this and other precincts in Dallas County appears from the fact that from 2,400 to 2,500 was the white vote of the county, while the aggregate majority returned for the contestee was 5,462, being more than double the honest vote if all the Democrats had voted, and it is not at all probable that they did vote.

That these are safe conclusions for adoption also seems to follow from the fact repeatedly and abundantly proved as to Dallas County; that the colored voters were advised by their leaders not to register or vote, and that they conformed to that direction with very few exceptions. This direction was given with the belief that a fair election was not to be expected. Also by the circumstance that in these contested precincts of the county the opposition, consisting of Jeffersonian Democrats, Populists, and Republicans, supporting the contestant, was not given any election officers having the confidence of these party divisions. The inference must be that it was denied them to avoid the inconvenient protests of any person unwilling to tolerate fictitious and unlawful votes being placed in the ballot boxes.

The counsel for the contestee was careful to prove in many instances that the inspectors and their associates controlling the election proceedings were persons of good character and would be believed on their oaths, and rested, in answer to the positive proof given by contestant, upon the legal presumption against their misconduct. But this is only a presumption, and it disappears at once with proof that the persons charged violated the law. Slight evidence removes the presumption, and very strong evidence inconsistent with its existence concerning the conduct of the election officers was given in these instances. If they were really persons of good character, and in no way implicated in what appears to be these violations of law, they should have been sworn as witnesses, and, as far as they could do so, vindicate themselves against these necessary imputations of crime. But neither of them offered to do that, creating the belief that they could not do that without adding another offense to those committed by their violation of the election laws of the State of Alabama.

It is a familiar principle that even a weak case may be strengthened by the omission to give exculpatory evidence clearly within the control of the person affected. Respect for themselves, as well as their duty to the public, would have naturally led to the giving of this evidence by the accused persons if they had been inclined to sustain their proceedings against the charges apparently so well founded that were made against them.

In the following precincts votes were given for the contestant which were not returned for him. These are:

MONTEVALLO, BOX 1, SHELBY COUNTY.

The returns stated the vote of Mr. Robbins to be 208 and the vote of Mr. Aldrich to be 199. Three persons testified as to the vote in this precinct. One of them was an inspector, and prepared about 200 tickets for illiterate voters, all for Mr. Aldrich. It was also stated that about 148 colored men and about 150 Populists voted for him. Another witness testified that he kept an account of the persons who voted for Aldrich, and that there were 273 names on the list.

Affidavits made by 273 persons were read by consent, corroborating the claim made in behalf of Aldrich, each of them swearing that he voted for Aldrich. When the inspector was fixing the tickets of the illiterates the polls were left in charge of the Democratic officials. This evidence warrants the conclusion that Aldrich was deprived of 84 votes given for him in this precinct.

ANNISTON, WARD 1, CALHOUN COUNTY.

The returns stated the vote for Aldrich to be 31, and witnesses were sworn and examined in his behalf stating that he had, in fact, a larger vote. Eighteen persons testified that they each voted for him. Then an agreement was made in writing by the counsel representing the parties that 45 persons, who were subpoenaed for the contestant, would each swear that they voted for him; but the counsel for Mr. Robbins denied that it was true in fact.

It was agreed that the admission should have the same force and effect as if the witnesses had been present, sworn, and testified, as set out in the admission. And that seemed to give to Mr. Aldrich 63 votes in this ward, instead of 31, as allowed him by the returns.

WARD 2.

A like agreement was made concerning the vote in Ward No. 2 of the same city. It was that more than 45 persons had voted for Mr. Robbins for Member of the Fifty-fourth Congress in that ward, and that they were legal voters. And it was agreed that this should have the same force and effect as if the witnesses appeared and testified.

The objection that these voters would testify falsely in giving their evidence is groundless. There is not the slightest reason for supposing that this number of persons would swear falsely in giving the evidence it was agreed that they would give if they had been sworn before the notary.

As the certificate of the election as it appears in the record was not subscribed by the inspectors, and they did not state the vote each of these persons received, it is contended that the vote certified by the judge of probate to have been received by Mr. Robbins should be excluded. But that can not be properly done, for it does not appear that the judge of probate did not have a properly certified return before him when he testified to the vote of this ward, and for the further reason that no objection is contained in the notice of contest. However, it was shown by other evidence that the vote given to Mr. Aldrich in Ward No. 2 reached as high as 65 or 70, and on that he can be safely given 20 more than the 45 already mentioned.

WARD NO. 3.

In the Third Ward there were 24 persons who swore that they each voted for Mr. Aldrich, while 14 only were certified for him by the probate judge. The additional 10 votes should be allowed him on the uncontradicted evidence of these witnesses.

WARD NO. 4.

The vote of the Fourth Ward was likewise perverted by the election officers. Instead of returning 21 votes, and probably more than that number, for Mr. Aldrich, he was given 18. In fact, the conduct of the election officers plainly violated the law of the State in refusing proper representation on the board to the contestant, and by intimidating conduct at the polls, and in falsifying the statement of the votes of the election.

It is a cause of just astonishment that men who are mentioned so often as intelligent and reputable persons in their communities will so far voluntarily degrade and criminate themselves as to descend to the political trickery and knavery so abundantly proved against them. It, however, is not necessary to proceed to the last extremity provided for the correction of fraudulent misconduct in these instances. A fair measure of redress has been otherwise provided. But it may become necessary in the future, when the remedy requires it, to root out the vice by setting aside the returns and the records of the officers altogether.

These elections are a blot on the fair face and integrity of the country, and are a despotism as complete and intolerant as can be found in any of the arbitrary systems of the Old World. And the people can only vindicate themselves against the wrong by frowning down and denouncing the abuse of law and public authority.

SUMMARY.

The following summary shows the result of the various changes in the votes of the various precincts in the entire district:

County.	Aldrich.	Robbins.
Calhoun		1, 838
Aldrich vote as returned	1, 481	
Votes to be added to the vote for Aldrich:		
Anniston, Ward 1	32	
2	20	
3	10	
4	3	
Total	65	
Chilton (no change)	1, 546	
Cleburne (no change)	785	320
Shelby	677	562
Aldrich vote as returned		920
Votes to be added to vote of Aldrich, Montevallo, box 1	1, 631	
Talladega (no change)	84	
Dallas:	1, 715	
Aldrich vote as returned	2, 110	1, 390
Robbins vote as returned		
Votes to be deducted therefrom in precincts in Dallas County, viz:		
Summerfield (2)	72	
Woodlawn (3)		
Martins (7)		
Orrville (8)		
Lexington (9)		
River (10)		
Old Town (12)		
Union (23)		
Pences (24)		
Libertyhill (25)		
Elm Bluff (32)		
Carlowville (33)		
Boykins (34)		
Mitchells (35)		
City beat (36)		
Total		1, 274
Total	4, 188	6, 304
	6, 905	6, 304
Aldrich's plurality	601	

By reducing the votes for the contestee in the manner already stated, in the several precincts of Dallas County, his reported majority for Representative of the Fourth Alabama Congressional district is wholly extinguished, and a deficiency created against him of 452 votes. Adding to that the votes given, but not allowed to the contestant in Shelby and Calhoun counties, in all 149, and the contestant has a majority of 601 for him as Representative in the Fifty-fourth Congress for the Fourth Congressional district of the State of Alabama.

And we do, therefore, report that the contestant and not the contestee is entitled to the seat in the House of Representatives of the Fifty-fourth Congress as the Representative of the Fourth Congressional district of the State of Alabama, and we recommend the adoption of resolutions to that effect, and the unseating of the contestee and the seating of the contestant as such Representative.

All of which is respectfully submitted.

CHAS. DANIELS, *Chairman*.
EDWARD D. COOKE.

FEBRUARY 29, 1896.

ALDRICH v. ROBBINS.

MARCH 7, 1896.—Referred to the House Calendar and ordered to be printed.

Mr. DINSMORE, from the Committee on Elections, No. 1, submitted the following

VIEWS OF THE MINORITY:

[To accompany House Res. No. 193.]

The undersigned members of Committee on Elections, No. 1, having, together with the other members of said committee, had under consideration the contest of William F. Aldrich for the seat in the Fifty-fourth Congress, now held by Gaston A. Robbins, for the Fourth district of Alabama, after a full and careful examination of the record in said contest, and having heard the argument of counsel for the parties, respectfully submit to the House the following:

In the first place the testimony taken before S. S. Holbrook, a notary public, in the counties of Dallas and Calhoun is not evidence to be considered in this case, because said Holbrook was appointed a notary public for the county of Shelby and his jurisdiction as such notary public is confined to the limits of Shelby County, and he had no authority under the law to administer an oath to witnesses or to take their testimony when such oath was administered to witnesses and such testimony taken by him outside of the county of Shelby. If this conclusion is correct then no part of the testimony as to these two counties can be considered by the committee or the House and should be rejected, and the motion of contestee to suppress the depositions of the witnesses who were sworn by such notary should be granted and in that event there would be no evidence whatever before the committee in behalf of contestant. A notary public is a State officer. His powers and jurisdiction are defined and limited by the State law, and, while Congress designates a notary public as one of the officers who may issue a subpoena to the witness, administer the oath, and take the testimony, section 110 of the Revised Statutes of the United States does not create him a Federal officer, nor does it clothe him with any additional power to that granted him by the State authority under which he is appointed, but simply selects such a person who is a notary public under the statute law to take testimony by virtue of the power and authority that he is granted by the State law.

Outside of the county for which he is appointed a notary public is a mere private person under the law of Alabama. The mere fact that he resides inside of the Congressional district does not give him, under the Federal statute, authority to act officially outside the limits of the county for which he was appointed. The mere fact that Congress designates him as one of the officers who may issue the subpoena and

administer an oath does not give him any additional authority. He possesses this authority under the statute law, but he does not possess, under the State law, any authority to issue a subpoena or to swear a witness outside of the county in which he is appointed. The true test to apply to this question is, If a witness who had been sworn before this notary public were indicted for perjury or false swearing before him in this case where the oath was administered and the testimony given in Dallas or Calhoun counties, could he be convicted? It is true that he could not be indicted in the State court nor tried in the State court for any such offense, but if indicted and tried in the Federal court for such an alleged offense the reply to the indictment that the notary public had no authority to administer an oath to the witness in any county except in the county where he was appointed would prevent any conviction. So we have the testimony of witnesses which we are asked to rely upon and to take, to whom an oath was administered by an unauthorized officer, and none of whom could be convicted and prosecuted for perjury if their testimony was admittedly false.

It was the evident purpose of the statute, manifested by section 115, that the witnesses should be examined in the county of their residence, because section 115 declares that no witness shall be required to attend an examination out of the county in which he resides or be served with a subpoena. This section, taken in connection with 110, evidently means that when the party takes testimony before the officers mentioned it must be done by an officer who is authorized to take testimony under the law in any part of the district, such as a judge of the court of the United States, chancellor, or judge, and that even in that event he shall not be required to go outside of the county of his residence; nor shall such witness be served with a subpoena to go outside of the county of his residence. Everything intended that the testimony should be taken in the county of the residence of the witness, and by such a person as was authorized to administer an oath to such witness in the county of the residence of the witness.

The code of Alabama of 1886, sections 1102, 1112, and 1118, define what the duties and jurisdiction of a notary public are, and declare that his appointment is a local one and that his authority to administer an oath is confined to the territory for which he is commissioned; that is, to the county.

The supreme court of Alabama declared in the case of the Edinburgh-American Land Company *v.* People et al., to be found in 102 Alabama Reports, that the authority of a notary to administer an oath is confined to the county for which he is appointed, and it is the rule of law universal that the power of a notary to administer an oath is derived from his appointment as such notary. (Proffatt on Notaries, secs. 35 and 37, 16 Am. and Eng. Enc. of Law, 756 and 768.)

The Supreme Court of the United States decided in the case of the United States against Curtis, page 671, volume 107, United States Reports, that an oath made before a notary public who was not authorized by the statute of the United States to administer an oath is not punishable for false swearing or perjury. The same doctrine is held in the United States against Hall, 135 United States Reports, 50. The case of Washburn *v.* Voorhees is the only precedent for an adverse view. It must be remembered that this case was decided February 19, 1866, the election having been held October 18, 1864. Not an authority or precedent before or since that time is cited or offered, and we respectfully submit that it seems to be at variance with the purpose of the statute, and with reason.

INSUFFICIENCY OF NOTICE OF CONTEST.

The contestee demurred to the sufficiency of the notice of contest in the following terms:

First. I demur to and shall move to strike out each and every charge contained in your notice of contest from page 1 through and including page 15, upon the grounds that none of said charges contains any specifications upon which a contest for my seat in the Fifty-fourth Congress of the United States of America can rest, nor are said charges such as are required by the statutes in such cases made and provided.

Second. I demur to and shall move to strike out each and every charge contained in your said notice of contest from page 1 through and including page 15, for the reason that none of said charges is specific, as the law in such cases requires.

Third. I demur to and shall move to strike out from your said notice of contest each charge therein from page 1 through and including page 15, upon the ground that each and every one of said charges of fraud, so called, are general and vague in their character and are not specific, as required by the statutes in such cases made and provided.

Fourth. I demur to and shall move to strike out from your said notice of contest each and every one of said charges, or claims made by you in said notice of contest, for the reason that in said notice of contest you nowhere state the number of votes received by you, nor the number of votes received by me, which were cast by the legally qualified voters of the said Fourth Congressional district of Alabama.

Fifth. I demur to and shall move to strike out each and every one of the charges contained in your notice of contest, upon the grounds that the facts upon which you base your contest are not sufficiently set forth in your notice of contest to justify the taking of testimony as contemplated by law.

The general charge in the notice is as follows:

I deny that at the election held on the 6th day of November, 1894, being the only election held to fill said office, you were elected to that position, but I affirm that at said election I was duly and legally elected by the qualified electors of the Fourth Congressional district of the State of Alabama to represent them in the said Fifty-fourth Congress of the United States of America.

I, in fact, received a majority of the legal votes cast in said election in the said Fourth Congressional district of Alabama, and would have received a certificate of election from the governor of Alabama, instead of your having received the same, but for the wrongs and frauds hereinafter designated.

The following are charges made by contestant as to each precinct:

FIRST.

(1) That in the county of Dallas, in said district, on said day and year, and at the election aforesaid, there was fraud and other improper conduct on the part of managers, clerks, and other officers of election, to such an extent that at the voting precinct No. 2, in said county, commonly called Summerfield, you were allowed and credited with 160 votes and myself with 2 votes, when in truth and in fact only 31 votes were polled altogether in said precinct at said election.

Of the 31 votes actually cast I claim and charge that I received many more than the 2 allowed me.

At precinct No. 3, in said county, at said election, you were allowed and credited with 130 votes and myself with 9 votes, when in truth and in fact only 14 votes altogether were cast at said election.

At the precinct in said county commonly called Valley Creek you were allowed and credited with — votes and myself with 3 votes, when in truth and in fact only 20 votes altogether were cast. Of the 20 votes cast at said election in said precinct I claim and charge that I received more than the 3 votes allowed me.

At precinct No. 5, in said county, commonly called Harrell's, there were actually cast 13 votes, and you were credited with and allowed all of said 13 votes. I claim and charge that I received a large part of said 13 votes.

In precinct No. 7, in said county, commonly called Martin's, there were actually cast at said election only 60 votes, and you are credited with and allowed 503 votes. Of the said 503 votes allowed you at least 443 votes were never in fact cast, and of the 60 votes actually cast I claim and charge that I received a large number thereof, though I was not allowed or credited with any votes at this beat.

At precinct No. 8, in said county, commonly called Orrville, at said election there were actually cast 35 votes. You were credited with and allowed 368 votes and

myself 1 vote. Of the said 368 votes allowed you at least 333 votes were in fact never cast, and of the votes actually cast at said beat in said election I claim and charge that I actually received a large number thereof.

At precinct No. 9, in said county, commonly called Lexington, there were in fact only 35 votes cast at said election, and you were credited with and allowed 250 votes and myself only 1 vote. Of the 250 votes allowed you at least 215 were never in fact cast, and of the 35 votes actually cast I claim and charge that I actually received a large number thereof.

At precinct No. 10, in said county, commonly called River, there were actually cast 15 votes, and you were credited with and allowed 276 votes and myself none. Of the 15 votes actually cast I claim and charge that I received a large proportion thereof, and of the 276 votes allowed you I claim and charge that at least 261 votes were never in fact cast.

At precinct No. 11, in said county, commonly called Pine Flat, there were actually cast at said election 18 votes, and you were credited with all the votes cast. I claim and charge that I actually received a large proportion thereof.

At precinct No. 12, in said county, commonly called Old Town, there were actually cast at said election 35 votes. You were credited with and allowed 278 votes, and myself with none. Of the said 278 votes allowed you, at least 243 votes were in fact never cast, and of the 35 votes actually cast I claim and charge that I received a large proportion thereof.

At precinct No. 13, in said county, commonly called Pleasant Hill, there were actually cast at said election 52 votes, and you were credited with all of the votes cast, and myself with none. Of the votes actually cast I claim to have received a large proportion thereof.

At precinct No. 14, in said county, commonly called Richmond, there was no election held on the said 6th day of November, 1894, or at any other time, for Representative in the Fifty-fourth Congress of the United States of America. I claim and charge that this failure and omission to hold an election was with a fraudulent intent on the part of the officers of election, who were your political friends and supporters, to deprive qualified electors of an opportunity to cast their ballots at said election, and that a large majority of the qualified electors of said precinct favored my candidacy for the said office, and desired to and would have voted for me for the said office had they not been fraudulently prevented from voting as aforesaid.

At precinct No. 15, in said county, commonly called Portland, there were actually cast at said election 10 votes. You were credited with and allowed all the votes cast at said election, and myself with none. I claim and charge that I actually received a large proportion of the said votes cast.

At precinct No. 16, in said county, commonly called Cahaba, there was no election held for the said office. I claim and charge that the failure and omission to hold said election was due to fraudulent intent on the part of the officers of election, who were your political friends and supporters, and that intent was to deprive a large number of duly qualified electors of the privilege of voting at said election, and that if said qualified electors had not been prevented from voting I would have received a large number of votes in said beat at said election.

At precinct No. 22, in said county, commonly called Burnville, there were actually cast 23 votes, all of which were credited to you, and none to me, when in truth and in fact I actually received a large proportion thereof.

At precinct No. 23, in said county, commonly called Union, there were actually cast at said election only 6 votes. You were credited with and allowed 295 votes, and myself with none. Of the 295 votes allowed you, at least 289 were never in fact cast. Of the 6 votes actually cast I claim and charge that I received a large proportion thereof.

At precinct No. 25, in said county, commonly called Libertyhill, there were actually cast at said election only 15 votes. You were credited with and allowed 274 votes, and myself with none. Of the 274 votes allowed you, at least 259 votes were never in fact cast, and of the 15 votes actually cast I claim and charge that I received a large proportion thereof.

At precinct No. 27, in said county, commonly called Vernon, there were actually cast at said election 12 votes, and of the said 12 votes you were credited with and allowed all, and myself with none. I claim and charge that I received a large proportion of the said 12 votes.

At precinct No. 28, in said county, commonly called Marion Junction, there were actually cast 22 votes. You were allowed all the votes cast at said precinct at said election, and myself none. Of the said 22 votes cast I claim and charge that I actually received a large proportion thereof.

At precinct No. 29, in said county, commonly called Browns, there were actually cast at said election 11 votes, of which you were allowed all and myself none. I claim and charge that of the said 11 votes I actually received a large proportion.

At precinct No. 30, in said county, commonly called Kings, there were actually cast 13 votes, of which you were allowed 12 and myself 1. I claim and charge that I actually received many more votes than the 1 allowed me.

At precinct No. 31, in said county, commonly called Smyleys, there were actually cast at said election 6 votes. You were allowed all of said 6 votes and myself none. I claim and charge that I received a large proportion of the 6 votes cast.

At precinct No. 32, in said county, commonly called Elm Bluff, there were actually cast at said election 22 votes. You were credited with and allowed 123 votes and myself with 12. Of the said 123 votes allowed you at least 101 votes were not in fact cast.

At precinct No. 33, in said county, commonly called Carlowville, there were actually cast at said election only 25 votes. You were credited with and allowed 129 votes and myself with none. Of the said 129 votes allowed you at least 104 were never in fact cast, and of the 25 votes actually cast I claim and charge that I received a large proportion thereof.

At precinct No. 34, in said county, commonly called Boykins, there were actually cast 24 votes, and you were allowed all of the votes cast and myself none. Of the 24 votes cast I claim and charge that I actually received a large proportion thereof.

At precinct No. 35, in said county, commonly called Mitchells, there were actually cast at said election only 17 votes. You were credited with and allowed 389 votes and myself none. Of the 389 votes allowed you at least 372 were in fact never cast. Of the 17 votes actually cast I claim and charge that I received a large proportion thereof.

At precinct No. 36, in said county, commonly called Selma, or city beat, there were actually cast at said election only 767 votes. You were credited with and allowed 2,014 votes and myself with only 5 votes. Of the 2,014 votes allowed you at least 1,247 votes were never in fact cast. Of the 767 votes actually cast at said election I claim and charge that I received a large proportion thereof and many more than the 5 votes allowed me.

We do not think that this is a sufficient notice of contest, because it is required that there must be the same precision in averments as is required in other proceedings in which courts decide as to law and the facts. It is too general. It does not state how many votes the contestant received nor how many the contestee received, nor does it allege of the votes actually cast how many the contestant received or the contestee received. It does not come up to the requirements of section 105 of the Revised Statutes of the United States, which requires "that the contestant shall specify particularly the grounds upon which he relies in the contest." The proof taken is not confined to the facts alleged in the notice and denied in the answer. Section 121, Revised Statutes, declares "that the testimony to be taken by either party to the contest shall be confined to the proof or disproof of the facts alleged or denied in the notice or answer." The evidence offered to sustain the grounds contained in the notice of contest is entirely different from that which would be expected to be offered to sustain such allegation. Nor is there any allegation in the notice of contest that by reason of the acts alleged to have been done by the election officers the result would have been different from that which was announced. We therefore conclude that the notice was insufficient and the proof and the grounds alleged do not agree. (See *Paine on Elections*, 824; *Cline v. Veree*, Second Congressional Election Cases, 381; *Buckhannan v. Manning*, 6 Congressional Election Cases, 287.)

But we do not rest our decision in the case upon the sufficiency of the pleadings or the failure of the evidence to correspond with the pleadings, because we are unwilling, if the testimony had developed the fact that the contestee was not elected, to report in his favor merely because the contestant failed to comply with the law as to the sufficiency of the notice. While it is true that the evidence offered by the contestant utterly fails to sustain his case as made in the notice, yet it is equally true that the evidence offered is wholly insufficient and fails to prove that the contestant was elected. On the contrary, a careful

examination of the evidence and of the law applicable thereto shows that the contestee was elected and is entitled to his seat.

The return of the election officers made, as it is, under oath is prima facie evidence of the truth of their contents and must stand as the truth until such facts are proven as to clearly show that it is not true or that they are fraudulent. Wherever it has been conclusively shown by the evidence that fraud was perpetrated upon the part of the election officers sufficient to cast suspicion upon the returns we have disregarded the returns and have resorted to aliunde proof for the purpose of establishing the votes received by each the contestant and the contestee. We understand this to be the rule:

That the poll must be purged, if possible, of the fraudulent vote, and the real vote counted. When fraud of the election officers is established the poll should not be rejected unless it shall prove impossible to purge it of fraud. (Paine on Elections, sec. 499; McCreary on Elections, second edition, secs. 302, 304, and 555.)

There is nothing which will justify the striking out of an entire poll but an inability to decipher the returns, or that a single vote was polled, or that no election was legally held. (Chadwick v. Melvin, Brightly Election Cases.)

Undoubtedly the general rule is that if legal votes have been cast in good faith by honest electors it is the duty of the tribunal trying the contest to ascertain their number and give their due effect to the misconduct or even fraud upon the part of the election officers. The innocent voter should not suffer on that account if by any reason his right can be upheld, and effect should be given to the majority of votes if there is evidence upon which this can be done. (McCreary on Elections, 555.)

No investigation should be spared that would reach the truth without entirely rejecting the poll.

If the entire returns are rejected the parties will be left to make such proof as they may of the votes legally cast for them. But when fraud on the part of the election officer is established the poll will not be rejected unless it shall prove impossible to purge it of the fraud. (Paine on Elections, sec. 499; Covode v. Foster, second Bartlett, 600; Knox v. Blair, first Bart., 525.)

In some of the precincts evidence was offered to show that certain persons whose names appeared on the poll list reside in other precincts or in another county and that persons of like name with those on the poll lists did not vote.

In two precincts witnesses were shown the poll list and stated that they did not recognize a number of names on such list as persons residing in that precinct.

While this sort of testimony is admissible, it is in most instances of little value. Something further must be shown, direct or substantial, than that the names of persons similar to those names that appear on the poll list did not reside in the precinct or did not vote. No name should be stricken from the poll list as unknown upon the testimony of one witness only that no such person is known in the county; and when a man of like name is known as residing in another precinct or county, some proof, direct or substantial, other than the presence of such a name on the poll book will be required. (Paine on Elections, secs. 760 and 761, p. 637; Lethcer v. Moore, Clarke and Hall Cases, 749; McCreary on Elections, sec. 756.)

These are well-settled rules, but in spite of them one portion of the committee who have reported have rejected all of the votes cast in certain precincts. The other portion of the committee have undertaken to count those that they say have been proven to have been cast, and have rejected the returns made by the officers on the ground that certain persons of similar name to those on the poll list do not reside in the precinct or the county, or were absent. We do not think the law authorizes these conclusions of such members of the committee, but even if it had been established that these names upon the poll list were those of the identical persons who were proven not to have voted, we do not believe it justifies the rejection of the entire poll, when the poll

could have been purged by deducting the votes of such persons from the persons for whom they were cast.

The Fourth Alabama district is composed of the counties of Calhoun, Chilton, Cleburne, Dallas, Shelby, and Talladega.

The vote as returned by the election officers for the election held in said district for a Member of Congress on the 6th day of November, 1894, there being two candidates, viz, Gaston A. Robbins, Democrat, and William F. Aldrich, Republican, was as follows, to wit:

Counties.	G. A. Robbins.	W. F. Aldrich.
Calhoun	1, 838	1, 481
Chilton	320	785
Cleburne	562	677
Dallas	5, 462	72
Shelby	920	1, 631
Talladega	1, 390	2, 110
Total	10, 492	6, 756

giving, as will be observed, a majority for Gaston A. Robbins of 3,736 votes.

As to the counties of Chilton, Cleburne, and Talladega, there is no contest. In Shelby County only one precinct is contested, Mr. Aldrich claiming that he actually received 284 votes in Montevallo precinct; whereas there were returned for him but 199. In Calhoun County there is no contest except as to wards 1, 2, 3, and 4, of the city of Anniston, where contestant claims that he received more votes than were returned for him.

Dallas County comprises 28 precincts or beats, and of these 15 are contested.

The vote in the contested precincts of Montevallo, in Shelby County, and wards 1, 2, 3, and 4 of the city of Anniston, in Calhoun County, should be counted as returned. Contestant's claim that more votes were cast for him than were returned by the officers is unsupported by any but the flimsiest evidence, one witness swearing that he counted the voters who stated that they had voted for Aldrich at one of the precincts, but he could not even be certain as to the number. His testimony does not amount to respectable "hearsay." The only other evidence is that of a few witnesses who swore that they voted for Aldrich, and the admission of contestee, by his counsel, that certain others would, if present, also swear that they had voted for contestant. It needs only to be stated that the ballots themselves constituted the best and only admissible evidence until explanation was made as to why they were not and could not be introduced. And no effort was made to resort to this best evidence. We agree with our four colleagues who have reported against disturbing the returns from these four precincts and Montevallo. The charge of intimidation at Anniston failed dismally in the effort to prove it.

We come now to consider the vote in Dallas County. We are convinced that in the precincts of Summerfield, Martins, Lexington, River, Union, Elm Bluff, Carlowville, Boykins, Mitchells, and Selma or city beat the official returns are unreliable, and therefore agree with the majority of the committee that the result in these beats must be arrived at from the evidence. It is our duty to give to each party all the votes cast for him that can be ascertained from the evidence, to the end that no

citizen shall be unnecessarily deprived of his franchise. We think that the conclusion expressed in the report of the chairman of the committee (Mr. Daniels), with Mr. Cook, as to the precincts last named, is reasonable and fair in so far as they count the votes for the parties, contestant and contestee. We do not wish, however, to be understood as assenting to all that is said in that report in reaching those conclusions. In city beat (the city of Selma) we have no doubt that the contestee, Mr. Robbins, actually received more votes than those gentlemen count for him, or the contestant in his notice of contest admits were actually cast, viz, 767; but the returns being unreliable and the contestee having elected to rest his case on the testimony of contestant's witnesses, we are unable to ascertain how many more. We call the attention of the House to the evidence in the record, which discloses the following pertinent facts:

The opposition to the Organized Democracy in this county had been instructed by the contestant, Aldrich, and the party leaders to remain away from the polls and not to vote; and that the Aldrich men of whatever affiliation, whether Republicans, Populists, or Jeffersonian Democrats, in so far as there is any evidence (and there is evidence), except the few who were proven to have cast their votes for Mr. Aldrich, did refrain from voting. The evidence on the other hand shows that the Democrats were unusually active in getting out the vote at Selma, at the election for a Congressman on November 6, 1894; that the voters were brought in in carriages to the polls; and the testimony of Judge Craig, an old resident of the city and an active politician, who, as a Republican, has, according to the record, held the office of sheriff, district judge, and Member of Congress while a resident of that city, shows that there are, at the very lowest estimate contestant's counsel, after labored effort, could induce him to make, 1,200 white Democratic voters in Selma. We believe that a large number of these Democrats are disfranchised by the count, but for the reasons given it must be so. But under the rules of law which obtain to regulate our procedure in cases like this, in view of the contestant's own evidence, the House can not do less than to give to Mr. Robbins 767 votes at this precinct. Four members of the committee, in their separate report, reject this count and give Mr. Robbins but 3 votes at Selma; but two of the majority, including the chairman, join with the undersigned, making a majority of the committee as to the count of that vote, viz, 767 for Robbins.

The contestant asks that the returns from Pence's beat shall be discarded as worthless, and has introduced evidence on which he makes this demand, but the committee has decided unanimously that it shall stand as returned.

LIBERTYHILL.

At Libertyhill precinct the returns show that 274 votes were cast; all for Robbins.

The honorable chairman of the committee and our colleague, Mr. Cook, reject the returns from this precinct on the ground of fraud, and give contestee but 30 votes, while the charge of fraud is found to be unsustained by four members of the majority; and the undersigned believe that there is a total lack of evidence to sustain it. We set out below all the evidence as to the election in this precinct.

E. S. CLINE.

Q. What is your name, how old are you, where do you live, and how long have you lived there?—A. My name is E. S. Cline; I am 47 years old; I live in Liberty Hill precinct, Dallas County; I have lived there about four years.

Q. About how many white voters are there in Liberty Hill precinct?—A. I could not say. I have heard that there are about 40.

Q. What business are you engaged in?—A. I am agent for the Mobile and Birmingham Railroad, at Safford Station, Ala.

Q. Where were you on the day of the 6th of November, 1894?—A. I was at Safford in my office all day except when I went to my meals, as near as I can recollect.

Q. Was there an election in Liberty Hill precinct, held at Safford on the 6th day of last November?—A. Yes, sir; that is the polling place for that precinct.

Q. How large a place is Safford?—A. I suppose that there reside there sixty or seventy-five, men, women, and children.

Q. How far from your office was the polling place?—A. About 100 yards.

Q. Was it in sight?—A. The full view of it was obstructed by cotton-seed houses.

Q. Do you know H. C. Hatcher and S. C. Sheppard?—A. I know both of them.

Q. Since the election on the 6th day of last November have you had any conversation with H. C. Hatcher or S. C. Sheppard relative to that election?—A. No, sir.

Q. Did you have any conversation with both of them or with either of them prior to the election on the 6th day of last November with reference to the election?—A. I had none.

Q. Did you not tell me in this rear room here a few moments ago that you had had a conversation with one or both of these men relative to that election?—A. I said that to you a few moments ago, but I was not under oath at that time, and I was mistaken.

Q. You were not telling me the truth in the back room a few moments ago?—A. No; I was not telling you the truth.

Q. You came from Pennsylvania down to this country, did you not?—A. No, sir; I came from Missouri; I was born in Pennsylvania; I left Pennsylvania when I was 22 years old.

Q. What time in the day did you vote out there in Libertyhill precinct on the 6th day of November, 1894?—A. I did not vote at all on that day.

Q. When you lived in Pennsylvania you were a Republican, were you not?—A. I was.

Q. But when you got to Libertyhill precinct, in Dallas County, you got rid of your Republican principles, did you not?—A. I did not; I am still a Republican.

Q. Didn't you tell me a few moments ago in this back room that when you were in Pennsylvania you were a Republican?—A. I told you that.

Q. But that when you were in Libertyhill precinct, in Dallas County, you were not a Republican?—A. I told you that.

Q. Were you telling the truth or not?—A. That was not the truth that I told you in the back room, for I am still a Republican.

Q. You believe that if a man tells the truth in this world he will get left, do you?—A. Yes; as far as money matters are concerned.

Q. You knew that you were subpoenaed to come here and testify on behalf of W. F. Aldrich, did you not?—A. Yes.

Q. You knew that he was the nominee of the Republican party for Congress from this district, did you not?—A. I did not.

Q. You did not know that a Republican convention at Calera had nominated him?—A. I did not; I do not pay any attention to politics.

Q. You knew that he had made the race for Congress against Gaston A. Robbins, the nominee of the Democratic party, did you not?—A. Yes, sir; I knew that.

Q. And yet, knowing that, you admit that in this back room here a few moments ago you deliberately deceived him and me by telling us that you had had conversation in regard to this November election with H. C. Hatcher and S. C. Sheppard, and that you would state what that conversation was when you went on the witness stand?—A. I said that to you, and I said that it was not the truth.

Q. You say that you are a Republican?—A. Yes, sir.

Q. A loyal Republican?—A. Yes, sir; a loyal Republican.

Q. Opposed to the Democratic party?—A. Well, I voted for Cleveland. I voted for him because I thought he was a good man.

Q. And yet you say that you are a loyal Republican?—A. Yes, sir.

Q. Did you vote for him both times?—A. I voted for him only once. I do not think that I voted at all when he ran against Harrison the first time.

Q. In your best judgment, how many men were in Safford on the day of the election?—A. I have no idea; I do not know whether there was one or one hundred.

Q. Do you think that there were as many as 150 there on that day?—A. I think that there were not.

Q. Do you think that there were as many as 200 there that day?—A. I have no opinion as to whether there were that many there that day.

Q. Do you think that there were as many as 225 there on that day?—A. My judgment is that there were not.

Q. Do you think that there were as many as 274 men in the town of Safford on the day of the November election between the opening and closing of the polls?—A. No, sir; I think there were not.

Cross-examination:

Q. Have you had any conversation this morning with any other persons since you came here with regard to this testimony except Mr. Aldrich and Mr. Bowman?—A. Not in regard to that voting precinct.

Q. The conversation which you had with Mr. Bowman and Mr. Aldrich in the back room here was before you were under oath, was it not?—A. Yes, sir.

Q. Was that conversation of your seeking, or not?—A. It was not.

Q. You said that in your judgment there were not as many as 150 nor 225 nor 274 men at Safford between the opening and the closing of the polls on the 6th day of November, 1894. You could equally as well say, as far as you know, that there were not as many as 25 men there on that day, could you not?—A. Yes, sir.

Q. As far you know, then, there may have been 274 or 374 or 50 men in town on that day, might there not?—A. Yes, sir.

Q. Do you know the standing of H. C. Hatcher and S. C. Sheppard in the community in which they live?—A. They stand very well, so far as I know.

S. M. ROTHSCHILD.

Q. What is your name?—A. S. M. Rothschild.

Q. Where do you reside?—A. I reside in the city of Selma. I am engaged in the cotton commission business. I formerly lived in Libertyhill beat, in Dallas County.

Q. Do you have any business with the people in Libertyhill beat now?—A. To some extent I do.

Q. Have you or not an intimate acquaintance with the conditions and with the people who live in Libertyhill precinct, Dallas County?—A. I have.

Q. Please state, in your best judgment, how many white voters reside in Libertyhill precinct?—A. My best judgment is that there are about 30 residing there.

Q. How many colored voters?—A. From 200 to 300.

Q. Have you or not made a careful inspection of the certified copy of the poll list from Libertyhill precinct as made up for the election held there on the 6th day of last November?—A. I have looked over it.

Q. About how many names of white men do you find on that poll list?—A. Thirty-one, if I am not mistaken.

Q. The rest are colored people, are they not?—A. Yes, sir.

Q. It is a fact, is it not, that the colored people in this country are almost exclusively Republican in politics?—A. They are, as a rule.

Q. You are a Democrat, are you not?—A. Yes, sir.

Cross-examination:

Q. The Republican party in this county has no organization, has it?—A. It has not in Libertyhill beat, so far as I know.

Q. They have less now than they had when you lived in Libertyhill beat, has it not?—A. Yes, sir.

Q. Since Mr. Kolb has been running for governor and what is called the Third Party and the Populist party and the Jeffersonian Democratic party have been formed in this State, the negroes of this county and State have forgotten their old-time allegiance to the Republican party, have they not?—A. As far as my observation goes they have almost entirely withdrawn from politics and do not vote at all.

Q. You have not lived in the county since the formation of these new parties, have you?—A. I have not.

Q. Then your opportunities for observation so far as the negroes of Libertyhill precinct are concerned have been limited, have they not?—A. To some extent.

Q. You know nothing of the election in Libertyhill precinct on the 6th day of last November, do you?—A. Not a thing. I do not know how many votes were cast, nor do I know anything about it at all.

Q. H. C. Hatcher and S. C. Sheppard are reputable men, and any certificate that they would make is entitled to great credit, is it not?—A. Ordinarily, yes.

Q. You would believe either of them on oath, would you not?—A. I have no reason for not believing them on oath.

Q. You would believe an oath jointly signed by them, would you not?—A. Ordinarily, yes.

We pause here to show the vote in tabulated form as thus far

reviewed, which is sustained in each item by a majority of the members of the committee and leaves Mr. Aldrich's majority in the precincts thus disposed of 207.

County.	Robbins.	Aldrich.
Uncontested:		
Chilton	320	785
Cleburne	562	677
Talladega	1,390	2,110
As counted by seven members of the committee:		
Calhoun	1,838	1,481
Shelby	920	1,631
Dallas:		
Uncontested beats	221	42
Libertyhill beat	274	-----
As counted by five members of the committee:		
Dallas:		
Summerfield	29	2
Martins	60	-----
Lexington	37	1
River	8	-----
Union	6	-----
Pences	31	-----
Elm Bluff	7	-----
Carlowville	31	-----
Boykins	11	-----
Mitchells	16	-----
City (Selma)	767	5
Total	6,527	6,734

We are left now to consider but three other precincts, viz, Woodlawn, Orrville, and Old Town.

In Woodlawn there is some plausible ground on which to challenge the returns, since the contestant proves by two witnesses that they were present during the whole day when the election was being held, and that only 14 votes were cast. But we do not credit their statement. They themselves acknowledge on the witness stand that the officers who held the election in Woodlawn beat were trustworthy men and that they would believe a statement made by them under oath. There were three of these officers who under oath certified the returns; and one of them, St. John Lewis Tavel, was called to testify, and in his evidence sustained the returns. There are thus three men of acknowledged probity by their oaths sustaining the integrity of the returns, assailed only by the testimony of two idlers, who say they were impelled by curiosity to watch the election. We do not think it safe to discard solemn election returns on such slight evidence, particularly in this contest where the contestant or his friends seemed to have prepared for a contest before the election by hiring men, not, in some instances, of reputable character, for large sums of money to watch and report, and obviously to testify if necessary.

The vote from Woodlawn should be counted as returned—130 votes for Robbins and 9 votes for Aldrich.

WOODLAWN PRECINCT No. 2.

The contestant offered six witnesses as to this precinct. It returned for Robbins 134 votes and 9 for Aldrich. St. John Lewis Tavel, who was one of the inspectors of election, was the first witness. He swore that 139 votes were cast and that the election was honestly and fairly held. He stated that the witnesses, Samuel Seay and R. B. Cater, who had testified that only 14 men voted there that day lied when they so

testified. J. H. Sherrer testified that he did not vote at Woodlawn precinct; that he does not know how many votes are in the precinct, and knows nothing about the election held there. The poll list contains the name of J. H. Sherrer.

Samuel J. Seay was the next witness. He appeared to be, from the evidence, a strolling witness, with nothing particular to do, no business, and, according to the testimony of the contestant's own witness, "a constitutional drunkard." We do not believe his evidence entitled to any credit.

Richard B. Cater swears that only 14 votes were cast. Discredit is thrown upon his testimony by contestant's own evidence, and he is shown to be a disreputable character and his testimony not entitled to credit.

Lloyd Morrison swears that he did not register or vote. He further swears that he does not know what is meant by registering; that the election was held in November, 1894, for Mr. Kolb; that he does not know how many voters there are in Woodlawn beat; that the election was held for governor, and he does not know who voted and who did not. He does not know who is governor of Alabama.

Hilliard Goolsby swore he did not register and voted in the election in November; that he was in Benton, Lowndes County; that he travels around anywhere he can get a job. He does not know how many people live in Woodlawn; could not tell how large the precinct was; that what he understands by registering is that a man registers and votes at the same time; he does not know what the election was held for in November, 1894, and that he is not the Hilliard Goolsby who voted in Woodlawn in November, 1894.

Upon this testimony we do not feel authorized to reject this poll, especially since the evidence of the contestant shows that the election managers were honest, upright men, and entitled to credit.

ORRVILLE.

Orrville precinct is also cast out by the majority of the committee and its returns discredited, but without sufficient reason. The returns are not disputed except by unreliable inference. The fact that a large majority of the voters in the precinct are colored is insufficient to cast discredit on the returns of sworn officers, proven by contestant's witnesses to be honest, reliable men, especially since it is proven that the colored voters in this precinct usually vote with their landlords and that these landlords are all Democrats. The witness E. M. Riley, who swears that he was intimidated and driven away from the polls, by his own sworn evidence refutes his statement, for he swears that after he was warned to leave in fifteen minutes he remained two hours or more, and when asked on the witness stand why he did not leave at once said, "Because I did not feel like it." This witness swears, moreover, that he was a hireling; that he actually received \$12.50 for his service, and that by his contract he would have received \$20 if he had remained all day; that it was promised to him.

If Congress will invalidate an election on such testimony as is offered against the returns in this precinct all any defeated candidate need ever do is to hire some reprobate vagrant to testify to worthless suspicions.

There were 368 votes returned for Robbins at Orrville, and he should be credited with them all, and Mr. Aldrich with 1.

ORRVILLE BEAT No. 8.

There were four witnesses who testified—W. M. Booth, W. H. O'Brien, E. M. Riley (neither of these showed any reason to discredit the returns), and J. Gilbert Johnson, who was at Lexington precinct, 8 miles away, and who was not well acquainted with the people in Orrville beat, testified as to certain names appearing upon the Orrville poll list whom, he alleges, resided in Lexington precinct. He testified that persons of similar name to those on the poll list at Orrville resided in Lexington precinct, and that one of those of similar name, to wit, Charles West, was dead; but that there were two Charles West who used to live in Lexington precinct. He does not know whether any of these voted, except what they told him.

OLD TOWN BEAT No. 12.

Two hundred and seventy-eight votes were returned for Robbins, none for Aldrich, and 2 blank.

Louis P. Jones, a colored man, who seems to be an intelligent person, and who was at the polls for two hours after 9 o'clock, says he voted the Democratic ticket and voted for Robbins, because Robbins had done favors for his race; that while he was at the polls six or eight people besides the election officers voted. He only remained at the polls about an hour and went away from the polls about 150 or 200 yards and remained about an hour longer. He does not know whether the colored voters in Old Town are Democrats or Republicans. He knew some that voted the Democratic ticket; that in spite of instructions from Dr. Mosley and others he registered and voted.

Bob Adams, the other witness, swears he did not register and vote. Atwood Gordon swears he did not register and vote. Robert Gamble swears he did not register and vote. The poll list contained the name of Robert Gammon and not Robert Gamble.

Willis Harrison swears he did not register and vote; does not know anybody that did vote; does not know that another man in that beat by the name of Willis Harrison did not vote; takes no stock in elections; does not care whether the country goes Democratic or Republican.

Isiah Moore swears he did not register and vote. Dick Miles the same. Smart Robinson the same; does not know how many people live in Old Town; does not know who is President or Vice-President of the United States or governor of Alabama; that there might be another Smart Robinson in that precinct and he not know it. George Walton did not register and vote in November; does not know that the colored people in Old Town precinct belong to the Republican party; does not know how many people live in that precinct; does not know who is the President or Vice-President; does not know who was the Democratic candidate for Congress; says that Mr. Kolb was the Republican nominee for Congress at that time; came up to testify because he was told to come by a Mr. Mason and that he would get paid.

Ed Boyles swears he did not register and voted. George Thomas swears he did not register and voted; that he can not read nor write; does not know how many people live in Old Town; all he means to say is that he is not the George Thomas in Old Town precinct who voted in November.

Robert Starke, a colored preacher, stated that from his conversation with colored people in Old Town they did not register and vote in November. He expected to be paid for coming up and testifying as a witness;

that he did not go about the election, and that all he has testified to about it has been mere hearsay.

Jim Steele, a colored man, did not register and vote in November; that he came up at the request of Mr. Mason, who said: "Go ahead and you will be paid for it." Sam Street did not register and vote. Robert Starke did not register and vote. Ed Smith did not register and vote; does not know the voters in the precinct and is not the Ed Smith who registered and voted in the election. Nathan Steele swears the same.

A number of these witnesses, when asked the question, swear the election officers are reputable and good men and entitled to credit. We do not think the evidence is sufficient to reject this precinct, and we count the same as returned, giving 278 votes to Robbins.

Bringing forward now the totals for all the other precincts of Dallas County and the other counties from the tabulation above and adding to the vote of each the votes given in the official returns of these three beats of Woodlawn, Orrville, and Old Town, we have:

	For Robbins.	For Aldrich.
Brought forward.....	6, 527	6, 734
Woodlawn beat.....	130	9
Orrville beat.....	368	1
Old Town beat.....	278	.....
Total.....	7, 303 6, 744	6, 744
Majority for Robbins.....	559	.....

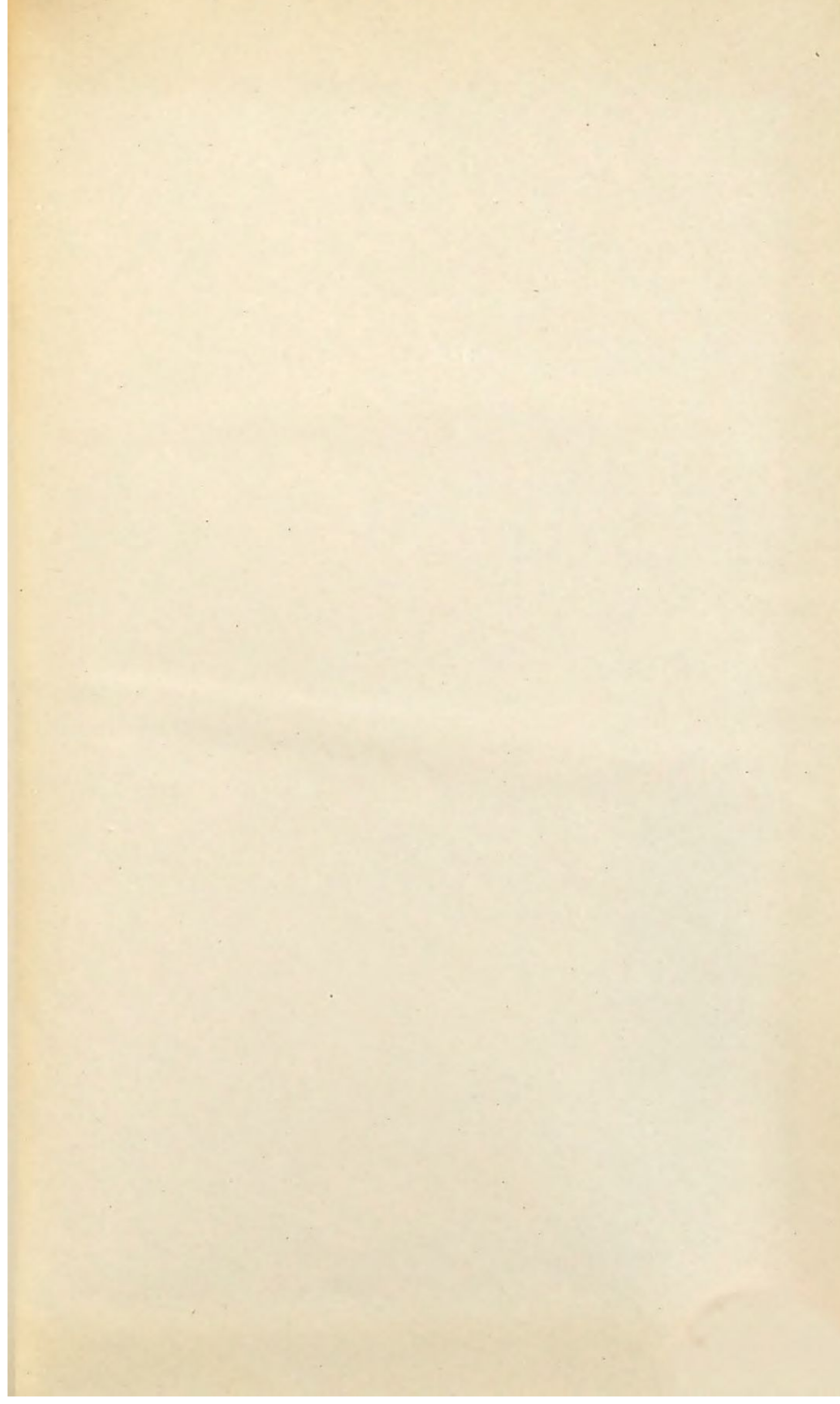
We thus find that Mr. Robbins is justly entitled to the seat in Congress which he now holds, and recommend the adoption of the following resolutions:

"*Resolved*, That William F. Aldrich was not elected a Member of the House of Representatives from the Fourth district of Alabama for the Fifty-fourth Congress, and is not entitled to the seat.

"*Resolved by the House of Representatives*, That Gaston A. Robbins was duly elected a Member of the Fifty-fourth Congress from the Fourth district of Alabama, and is entitled to a seat therein."

HUGH A. DINSMORE.
CHARLES L. BARTLETT.
SMITH S. TURNER.

Q. m. l.



House documents

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